

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Application by SBC Communications Inc.,)	
Michigan Bell Telephone Company, and)	
Southwestern Bell Communications Services,)	WC Docket No. 03-16
Inc. for Provision of In-Region, InterLATA)	
Services in Michigan)	

**JOINT REPLY DECLARATION OF KAREN W. MOORE,
TIMOTHY M. CONNOLLY, AND SHARON E. NORRIS
ON BEHALF OF AT&T CORP.**

March 4, 2003

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**JOINT REPLY DECLARATION OF KAREN W. MOORE,
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ON BEHALF OF AT&T CORP.**

1. My name is Karen W. Moore. I am the same Karen W. Moore who submitted a declaration in this proceeding with AT&T's initial comments. My educational background and work experience are described in my initial declaration.

2. My name is Timothy M. Connolly. I am the same Timothy M. Connolly who submitted a declaration in this proceeding with AT&T's initial comments. My educational background and work experience are described in my initial declaration.

3. My name is Sharon E. Norris. My business address is P.O. Box 658, Loganville, Georgia 30052. I have been employed in the telecommunications industry for over twenty-seven years. I currently serve as a consultant with SEN Consulting. In that capacity, I have monitored and analyzed, on an ongoing basis, BellSouth's compliance with its obligations

to provide AT&T nondiscriminatory access to BellSouth's OSS. I previously have been employed by both AT&T and Southern Bell. Prior to retiring from AT&T in 1998, I had been an employee there since 1983, a member of its Law and Government Affairs Division since 1991, and AT&T's representative to the Georgia Public Service Commission ("Georgia PSC") since 1995. From 1973 until 1983, I held various positions in Southern Bell's business offices, business marketing organizations, retail stores, and support staff organizations. I received a degree in Distributive Education from DeKalb College in 1972. As AT&T's representative to the Georgia PSC, I advocated AT&T's position on issues relating to opening Georgia's local exchange markets to competition. Beginning in 1997, I also began to monitor and analyze BellSouth's compliance with its OSS obligations throughout its nine-State region, a responsibility I continued to maintain when I retired from AT&T.

4. I have had extensive involvement in the State proceedings in BellSouth's region relating to the development, testing, and evaluation of BellSouth's OSS and other subjects. I have appeared in state workshops in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee that covered a wide range of topics including OSS, performance measures, and third-party testing. I have also testified before the State public utility commissions in the States in the BellSouth region, with the exception of Florida. Finally, I have testified before this Commission in proceedings involving BellSouth's first Section 271 application for Louisiana (CC Docket No. 97-231) and, more recently, in the proceedings involving BellSouth's joint application for Section 271 authority in Georgia and Louisiana (CC Docket Nos. 01-277 and 02-35), joint application for Section 271 authority in Alabama,

Kentucky, Mississippi, North Carolina and South Carolina (WC Docket No. 02-150), and joint application for Section 271 authority in Florida and Tennessee (WC Docket No. 02-307).

I. PURPOSE AND SUMMARY

5. The purpose of this joint reply declaration is to update the record regarding performance measurement issues that have arisen since AT&T filed its opening comments and to respond to a request from the Staff of the Commission for a comparison of BearingPoint's¹ Michigan Performance Measurement Review ("PMR") test with similar tests that BearingPoint has conducted in other states where BOCs have obtained 271 approval.

6. Part II explains that, although exceptions and observations in the BearingPoint PMR test have closed since AT&T filed its opening comments, three new exceptions and twelve new observations have been opened which further illustrate that SBC has not met and cannot meet its burden of showing that its performance data are complete, accurate and reliable. The three new exceptions reveal that: SBC has failed to retain data in accordance with state regulatory requirements which are needed to conduct any meaningful data reconciliation; SBC's technical documentation containing the step-by-step logic used to calculate performance results for 55 performance measurements is incomplete or inaccurate; and SBC's data flow diagrams and data element maps are inadequate, thereby increasing the risks of inconsistencies and errors in SBC's reported results and the metrics change management process.

¹ On October 1, 2002, KPMG Consulting, Inc. (KPMG") changed its name to BearingPoint, Inc. ("BearingPoint"). For ease of reference, in this joint reply declaration the term "BearingPoint" will simply be used to refer to KPMG or BearingPoint.

7. Additionally, the twelve new observations that have been opened since AT&T filed its opening comments show that: BearingPoint continues to experience difficulties in replicating the metrics values reported by SBC; SBC is improperly applying exclusions when calculating performance results; SBC appears to be missing trouble tickets in its data reported for a number of maintenance and repair measures; SBC appears to be using incorrect data when reporting results on rejection notice timeliness; and SBC fails to comply with the metrics business rules.

8. Significantly, 104 of SBC's performance measures have failed the PMR5 metrics replication test repeatedly, including performance measures that this Commission has considered in determining checklist compliance in prior applications. The chronic failure of these measures to satisfy the metrics replication test provides further confirmation that the current data upon which SBC relies should and must be eyed with suspicion.

9. Part III explains that, on February 28, 2003, SBC filed before the Michigan Public Service Commission ("MPSC") E&Y's Third Corrective Action Report which updates the status of the corrective action SBC purportedly has taken to resolve the defects in its data that E&Y identified during its audit. As AT&T explained in its opening comments, because the E&Y audit is procedurally and substantively flawed, SBC's reliance on the E&Y audit to demonstrate the so-called reliability of its data is misplaced. Putting these deficiencies to one side, E&Y's Third Corrective Action Report confirms that: SBC has taken an extraordinarily long time to implement corrective steps to resolve a portion of the defects E&Y identified in SBC's March-May 2002 data (which are 10-12 months old); SBC has not yet completed its

implementation of remedial steps that are necessary to assure accuracy in reporting; and E&Y has admitted that it has not examined all of SBC's assertions regarding the purported corrective action it has taken to resolve the defects in its performance monitoring and reporting processes.

10. Part IV explains that, although SBC in its Application has stated that its PMR test results in Michigan should mirror those in BearingPoint's Illinois PMR test and has touted the so-called progress it has made in satisfying test criteria in Illinois, Nancy Weber, who is employed by the Illinois Commerce Commission ("ICC") as Project Manager of the independent third-party review (by BearingPoint) of SBC's OSS in Illinois,² recently testified that, based upon BearingPoint's (as well as E&Y's) audit findings to date, SBC's performance data cannot properly be relied upon for checklist compliance. Indeed, the ICC Staff found that, despite the considerable time SBC has had to implement its performance metrics, there are far too many defects in its performance monitoring and reporting processes to assure accuracy in reported results, and that these inaccuracies in reported results would also thwart the effectiveness of a performance enforcement plan.

11. As Part V explains, SBC passed a paltry 11 percent of the applicable test criteria in the Michigan BearingPoint PMR test. Importantly, SBC's Michigan PMR test results are substantially worse than those in similar BearingPoint PMR tests conducted in states where BOCs have received 271 approval. Indeed, in those states where BOCs have received 271

² Phase II Affidavit of Nancy B. Weber on Behalf of Illinois Commerce Commission, dated February 21, 2003, *Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996* (Illinois Commerce Commission), Docket No. 01-0662. Hereinafter Ms. Weber will be referred to as the "ICC Staff," and her testimony will be referred to as "ICC Staff" (footnote continued on next page)

approval based upon PMR tests which are similar to the Michigan PMR test, the BOCs passed well over *90 percent* of the PMR test criteria. Against this backdrop, the Commission should not and must not take the extraordinary step of approving SBC's application when: SBC, on the basis of the BearingPoint Michigan Report, has passed only 11 percent of the PMR test criteria; open exceptions and observations in the Michigan PMR test illustrate that SBC's performance data are inherently unreliable; and it remains unclear how many new exceptions and observations will be opened in the BearingPoint Michigan audit.

12. Part VI explains that SBC's recent announcement of additional restatements which it plans to post in March 2003 further demonstrates the instability of SBC's performance data. SBC's March 2003 restatement will, once again, correct previously-reported performance data for certain data months that already have been subject to multiple rounds of corrections.

13. Part VII explains that recent events further confirm that SBC's performance measurements, as defined or as implemented, cannot properly be relied upon because they do not accurately capture SBC's performance. In response to AT&T's inquiries regarding the basis for SBC's exclusion of thousands of AT&T's Line Loss Notifications ("LLNs") from SBC's reported results on Performance Measurement ("PM") MI 13, SBC revealed to AT&T, for the first time, that many LLNs are not reported in its results because SBC excludes *all* LLNs involving SBC winbacks. Because the vast majority of AT&T's disconnects

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Weber Aff.").

involve SBC winbacks and SBC has excluded this wholesale category of orders, it is hardly surprising that SBC's results show that it has satisfied at times the benchmark standard for PM MI 13. As Part VII explains, if SBC winbacks were included in SBC's reported results for AT&T in November and December 2002, SBC would have missed the 95 percent performance standard for PM MI 13 by a considerable margin. Moreover, performance measurements are meaningless unless they accurately capture performance. However, because SBC's aggressive business rule interpretation effectively excludes the vast majority of AT&T's LLNs from its performance results, SBC's performance results on PM MI 13 do not and cannot possibly reflect SBC's actual performance in this critical area where SBC historically has had substantial performance problems.

14. Part VII also explains that, within the last two weeks, SBC's OSS have erroneously rejected thousands of AT&T's orders due to changes that SBC has made to its systems without prior notice to CLECs. As a result of SBC's most recent conduct, AT&T was forced, once again, to send supplemental orders for these rejected orders; and, unfortunately, SBC's abysmal performance will not be captured in its performance results.

15. Part VIII explains that SBC's assertions that it is fully committed to the data reconciliation process ring hollow. Data reconciliation is an intensive process which requires the provision of complete and accurate raw data files in a timely manner, the full participation of knowledgeable personnel, and a concerted effort by the parties to address and resolve expeditiously data integrity issues. However, AT&T has found that: SBC's raw data files are incomplete, inadequate and untimely; SBC has failed to ensure that its subject matter experts

are present to address data issues raised by AT&T; and SBC has introduced unnecessary delays in the data reconciliation process.

16. Given the deficiencies in SBC's performance data that have been uncovered to date, the remaining PMR testing that could unearth additional defects in SBC's data, the findings of the ICC Staff (and the MPSC) that SBC's performance monitoring and reporting systems are unstable, and SBC's demonstrated lack of commitment to the data reconciliation process, the current record provides no basis for a finding that SBC's performance data provide sufficient assurance that it has satisfied its Section 271 obligations.

II. RECENTLY OPENED BEARINGPOINT EXCEPTIONS AND OBSERVATIONS CONTINUE TO CONFIRM THAT SBC'S DATA ARE NOT RELIABLE.

17. As AT&T explained in its opening comments, SBC has not demonstrated that its performance data are accurate, reliable, and stable, a fundamental showing in all prior approved Section 271 applications.³ Contrary to SBC's assertions, the results of the BearingPoint audit do not prove that its performance data are trustworthy. The BearingPoint performance metrics audit that is currently being conducted has revealed numerous deficiencies which show that SBC's performance monitoring and reporting systems remain rife with error.⁴

³ *Michigan 271 Order*, ¶ 204; *Connecticut 271 Order*, Attach. D., ¶ 7; *Kansas Oklahoma 271 Order*, ¶ 270; *Texas 271 Order*, ¶¶ 428-49; *New York Order*, ¶ 433.

⁴ Moore/Connolly Decl., ¶¶ 54-99. See also CLECA Comments at 1 (noting that "SBC's final score in the BearingPoint tests as reported to the MPSC was . . . by far the lowest score ever given by a state commission that was recommending in favor of Section 271 application."); Cox (TDS Metrocom) Aff., ¶ 10 (referring to the exceptions in the BearingPoint test); WorldCom Comments at 14 (referring to the
(footnote continued on next page)

18. In its opening comments, AT&T discussed the exceptions and observations that have been opened during the BearingPoint audit which illustrate the significant defects in SBC's performance monitoring and reporting systems. Although BearingPoint has closed exceptions and observations since AT&T filed its opening comments, BearingPoint has opened three new exceptions and twelve new observations which further underscore the frivolity of SBC's claims that its data are accurate, and that it will soon satisfy the remaining test criteria in the BearingPoint PMR test.

19. **Exception 186.** As discussed in the initial Moore/Connolly declaration, during the PMR1 test, which evaluates "the adequacy and completeness of key policies and procedures for collecting and storing performance data," SBC failed 72 of the 126 test criteria and the remaining test criteria were deemed to be "Indeterminate."⁵ As AT&T explained, the "Not Satisfied" findings in the PMR1 test rested, in large measure, on Exceptions 19 and 20 in which BearingPoint found that SBC's documentation surrounding data collection and storage practices, controls and procedures for reporting performance results are inadequate. As AT&T also explained, SBC's contentions that it fully expects to satisfy the test criteria in the PMR1 test based upon the supplemental technical documentation that it provided to BearingPoint are nothing more than unsubstantiated, hopeful expectations that are entitled to no weight in this proceeding.⁶ Although Exceptions 19 and 20 have closed since AT&T filed its opening

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"staggering rate of failure" in the BearingPoint Audit report).

⁵ Moore/Connolly Decl., ¶ 54.

⁶ See, e.g., Moore/Connolly Decl., ¶¶ 54, 57-58.

comments, Exception 186, which was opened in the PMR1 test on February 10, 2003, confirms that SBC's procedures and policies for the collection and storage of performance data violate regulatory requirements.

20. In Exception 186, BearingPoint found that SBC "did not demonstrate that it retained data from certain systems consistent with regulatory requirements."⁷ BearingPoint found that SBC failed to retain data from 13 source systems⁸ consistent with Michigan regulatory requirements which require the retention of data "for a minimum of 24 months after the conclusion of the year in which the data was collected or 12 months after the issuance of the audit report, whichever is later."⁹ The affected source systems include a number of critical systems of record such as ARIS/EXACT and ICS/DSS, which are used for pre-ordering, ordering, and provisioning functions, as well as CAMPS, CABS, RBS, DUF files, and ACIS which are used for billing functions.¹⁰ During a status call, BearingPoint reported that it is continuing its evaluation and plans to release periodic updates regarding any other systems of record and reporting systems that have failed to retain data in accordance with regulatory requirements.

⁷ BearingPoint Exception 186, dated February 10, 2003 at 1.

⁸ The 13 source systems are: ACIS; ALPSS; ARIS/EXACT; CABS; CAMPS; CC MIS Wholesale; DUF Parity File; ICS/DSS; Manual-Directory Assistance Database Measures; Manual-EBTA; Clear Close; NSDB; and RBS.

⁹ BearingPoint Exception 186.

¹⁰ See *id.*; BearingPoint Michigan Report at 19.

21. In Exception 186, BearingPoint pointed out that SBC should have retained from its source systems all data that have been generated since January 2001.¹¹ However, BearingPoint found that the oldest data that SBC retained from the DUF Parity files were generated in October 2002. Similarly, the oldest data that SBC retained from the ACIS, CAMPS, and Manual-Directory Assistance Database Measures source systems were generated in January 2002, August 2002, and September 2002 respectively.¹²

22. Although SBC, in its Application, touts its willingness to engage in data reconciliation,¹³ Exception 186 demonstrates the fragility of SBC's claims. Clearly, if SBC fails to retain the raw data underlying its performance results in accordance with regulatory requirements, it is impossible for CLECs to engage in any meaningful data reconciliation. As a result, it is absurd for SBC to assert – as it does here – that it is fully committed to the data reconciliation process. Moreover, as BearingPoint aptly observed in assessing the impact of Exception 186, “[i]f source data is not retained, annual audits of historical data could be impeded,” “[a]ttempts to trace errors in the reported results could be hindered,” and SBC “may not be able to regenerate performance measurement reports as required.”¹⁴

23. **Exception 187.** During the PMR1 test, SBC provided its technical documentation which identifies “the systems used, the data required, and the step-by-step logic

¹¹ See BearingPoint Exception 186 at 1.

¹² BearingPoint Exception 186 at 1.

¹³ Ehr Aff., ¶ 270.

¹⁴ BearingPoint Exception 186 at 1.

used to arrive at the published performance measurement results.”¹⁵ Although SBC, in its Application, has heralded the completeness of its technical documentation and stated that it fully expects to satisfy all test criteria in the PMR1 test,¹⁶ Exception 187, which was opened recently, demonstrates the absurdity of SBC’s contentions.

24. SBC’s unprocessed data, which are first captured in various source systems, “undergo a transformation process in which the data fields necessary for calculating metric results are extracted and housed in repositories.”¹⁷ These data may migrate through more than one source system before reaching “the final repositories.”¹⁸ The data in these “repositories are then further manipulated to produce the metrics results.”¹⁹ However, in Exception 187 which was opened in the PMR1 test on February 13, 2003, BearingPoint found that SBC’s technical documentation that captures this process and contains the calculation logic for its performance results is inaccurate or incomplete with respect to 13 of the 18 measurement groups affecting 55 of the 149 performance measures.²⁰ Notably, the performance measurements that are adversely

¹⁵ BearingPoint Exception 187, dated February 18, 2003 at 1.

¹⁶ Ehr Aff., ¶¶ 249-250.

¹⁷ BearingPoint Michigan Report at 18.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ BearingPoint Exception 187, dated February 18, 2003. The performance measurement groups and measures that BearingPoint identified are: Billing (PMs 14 and 18); Collocation (PM MI 4); Directory Assistance and Operator Services (PM 83); Directory Assistance Database (PMs 110, 111, 112, and 113); Facilities Modification (PMs CW1, CW6, CW7, CW8, CW9, and WI 9); Interconnection Trunks (PM 71); Local Number Portability (PMs 91, 92, 93, 95, 96, 97, 98, 99, 100 and 101); Maintenance and Repair (PM 54); Ordering (PMs 5, 5.2, 6, 7, 7.1, 8, 9, 10.1, 10.2, 10.3, 10.4, 11, 11.1, 11.2, 13, 13.1, and MI 2); Other (PMs CW5, MI 9, MI 12, MI 13, and MI 15); Poles, Conduits and Rights of Way (PMs 105 and 106); Pre-Order (PMs 1.1 and 4); and Provisioning (PMs 55.1, 56, and 56.1).

affected by these deficiencies in SBC's calculation logic are neither trivial nor insignificant. Indeed, the affected performance metrics include measures that have been critical or highly probative in assessing a BOC's performance in prior 271 applications.

25. For example, this Commission has repeatedly stressed the critical importance of timely status notices.²¹ Similarly, this Commission has recognized that the degree to which orders flow through a BOC's systems without manual intervention is "a potential indicator of a wide range of problems that underlie a determination of whether a BOC provided nondiscriminatory access to its OSS."²² In Exception 187, however, BearingPoint found that SBC's step-by-step logic for calculating its reported results on status notice timeliness and flow through is inaccurate and incomplete.²³

26. Similarly, provisioning measures, such as those on average installation interval and percentage of due dates missed, are important "in assessing whether the incumbent

²¹ See, e.g., *BellSouth South Carolina 271 Order*, ¶ 139, *Second BellSouth Louisiana Order*, ¶ 131. See also *Georgia/Louisiana 271 Order*, ¶ 143 (noting that "a BOC's overall ability to . . . return timely order confirmation and rejection notices" is "relevant and probative for analyzing a BOC's ability to provide access to its ordering functions in a nondiscriminatory manner") (footnote omitted); *Texas 271 Order* ¶ 179 (same).

²² *Georgia/Louisiana 271 Order* ¶ 143; *Texas 271 Order*, ¶ 179.

²³ The ordering performance measurements which are impacted by these deficiencies in the calculation logic are: PM 5 (Percent Firm Order Confirmations Returned Within "X" Hours); PM 6 (Average Time to Return FOC); PM 7 (Percent Mechanized Completions Returned Within One Hour of Completion in Ordering Systems); PM 8 (Average Time to Return Mechanized Completions); PM 9 (Percent Rejects); PM 10.1 (Percent Mechanized Rejects Returned Within One Hour of Receipt of Order); PM 10.2 (Percent Manual Rejects Received Electronically and Returned Within Five Hours); PM 10.4 (Percentage of Orders Given Jeopardy Notices); PM 11 (Mean Time to Return Mechanized Rejects); PM 11.1 (Mean Time to Return Manual Rejects That Are Received Via an Electronic Interface); PM 13 (Order Process Percent Flow Through); and PM 13.1 (Total Order Process Percent Flow Through).

LEC processes and completes orders from competing carriers in the same timeframe in which it processes and completes its own retail orders.”²⁴ However, BearingPoint has found that SBC’s documentation of its performance measurement calculation logic for several provisioning metrics is inadequate: PM 55.1 (Average Installation Interval – DSL); PM 56 (Percent Installations Completed within Customer Requested Due Date); and PM 56.1 (Percent Installations Completed Within the Customer Requested Due Date for Loop with LNP).²⁵

27. As this Commission has also held, “[t]o compete effectively in the local exchange market, competing carriers must be able to diagnose and process customer trouble complaints with the same speed and accuracy that [the BOC] diagnoses and processes complaints from its retail customers.”²⁶ However, BearingPoint found in Exception 187 that SBC’s documentation fails to document adequately the calculation logic used to report results for Performance Measurement 54 (Failure Frequency) which measures the number of network trouble reports within a calendar month per 100 circuits.²⁷

28. This Commission also has held that a BOC is “obligated to provide competing carriers with complete and accurate reports on the service usage of competing carriers’ customers in substantially the same time and manner that [the BOC] provides such information to itself.”²⁸ However, BearingPoint found in Exception 187 that SBC’s technical

²⁴ *New York 271 Order*, ¶ 195.

²⁵ *See BearingPoint Exception 187*, dated February 18, 2003 at 1.

²⁶ *New York 271 Order*, ¶ 217.

²⁷ *BearingPoint Exception 187*, dated February 18, 2003 at 1.

²⁸ *New York 271 Order*, ¶¶ 226.

documentation does not adequately document the calculation logic used to report performance results for PMs 14 (Billing Accuracy) and 18 (Billing Timeliness – Wholesale Bill). Thus, SBC's incomplete or inaccurate documentation of the "step-by-step logic used to arrive at the published performance results" has negatively impacted numerous performance measures that are essential to competitive entry.²⁹

29. Importantly, in Exception 187, BearingPoint found that the inaccuracies in SBC's documentation "may include database queries that incorrectly document the extraction of data and calculation of performance results."³⁰ Given the critical importance of correct data extractions when calculating performance results, Exception 187 is a striking example of the inherent risk of relying on the performance data in SBC's Application. In assessing the impact of this exception, BearingPoint observed that "[a]ccurate documentation for calculating performance measurement results is necessary to maintain consistency in the calculation process and to enable effective management of changes to the calculations over time."³¹ BearingPoint is continuing to analyze the sufficiency of SBC's technical documentation for other measures and will update Exception 187 accordingly.

30. Notably, because the PMR1 test is inextricably linked to the PMR4 (Data Integrity) and PMR5 (Metrics Replication) tests, testing failures in PMR1 that are the subject of Exception 187 could spawn test failures in or thwart the completion of the PMR4 and PMR5

²⁹ See BearingPoint Exception 187 at 1.

³⁰ *Id.*

³¹ *Id.* at 2.

tests. For example, during the PMR4 (Data Integrity) test, BearingPoint obtains from SBC “unprocessed data from the earliest electronic capture point[s]” that are identified during the PMR1 test.³² During the data integrity phase of testing, BearingPoint assesses the completeness and accuracy of SBC’s data by comparing unprocessed data with processed data and SBC’s adherence to the performance measurements technical documentation which is evaluated during the PMR1 test.³³ However, SBC’s inaccurate or incomplete calculation logic examined during the PMR1 test could lead to test failures or adversely affect the ability of BearingPoint to test the completeness and accuracy of SBC’s data during the PMR4 test.

31. Similarly, during the PMR5 (Metrics Replication) test, BearingPoint examines, *inter alia*, “the procedures necessary for the calculation of the performance measurements” which are evaluated during the PMR1 test and confirms whether the metric values that SBC has reported are accurate and consistent with the metrics business rules governing the measures.³⁴ Because PMR1 testing is inescapably linked to PMR5 testing, it logically follows that the deficiencies in the calculation logic uncovered during the PMR1 test which are the subject of Exception 187 could result in test failures or incomplete testing during the PMR5 phase. More fundamentally, in view of the serious deficiencies in SBC’s technical

³² BearingPoint Michigan Report at 32.

³³ See BearingPoint Michigan Report at 32.

³⁴ *Id.* at 35.

documentation which sets forth the calculation logic used to produce its reported results, SBC cannot legitimately contend that its performance data are accurate and “above suspicion.”³⁵

32. **Exception 188.** On February 18, 2003, BearingPoint opened Exception 188, finding that SBC’s data flow diagrams (which document data flows from the Performance Measurement Reporting System to source systems) and data element maps (which document data flows from the Performance Measurement Reporting System to source systems at the field level) do “not consistently present an adequate depiction of the flow of data from the source systems to the performance measurement reporting systems for certain performance measurements.”³⁶ In this exception, BearingPoint identified 12 measurement groups and 42 performance measurements as to which SBC’s data flow documentation appears to be inaccurate.³⁷ The inaccuracies that BearingPoint “found in the documentation include the absence of certain intermediate systems and unclear sources of data elements.”³⁸ Additionally, BearingPoint pointed out that it is still in the process of examining the accuracy of technical documentation for other performance measurements.

³⁵ *Texas 271 Order* at ¶ 429.

³⁶ BearingPoint Exception 188, dated February 18, 2003 at 1.

³⁷ The performance measurement groups and measures are: 911 (PMs 104.1, MI 6); Bonafide Requests (PMs 120, 121); Billing (PMs 14, 19); Coordinated Conversions (PM 115.2); Directory Assistance Database (PMs 111, 113); Facilities Modification (PMs CW1, CW6, CW7, CW8, CW9); Interconnection Trunks (PM 71); Local Number Portability (PMs 91, 92, 93, 95, 99); Miscellaneous Administration (PM 25); Order (PMs 5, 5.2, 6, 7, 7.1, 8, 9, 10, 10.1, 10.2, 10.3, 10.4, 11, 11.1, 11.2, 13, 13.1, MI 2); Other (PMs MI 9, MI 13); and Pre-Order (PM 4).

³⁸ BearingPoint Exception 188 at 1.

33. Correct mapping of data fields is essential to consistent and accurate performance reporting. SBC's data flow diagrams and data element maps are the blueprints that serve as the basis upon which SBC analysts and programmers manage the data underlying SBC's reported results. These documents also are used to effect the changes in the performance monitoring system that are necessary to correct any defects in SBC's implementation of the metrics business rules which are identified in exceptions and observations during metrics testing. When data flow diagrams and data element maps are inaccurate and incomplete, system changes will be made on the basis of incorrect specifications that can substantially increase the risk that errors and internal inconsistencies will be introduced into the changed systems. In assessing the impact of Exception 188, BearingPoint explained that "[a]ccurate documentation, which describes the flow of performance data through SBC Ameritech's systems, is necessary to maintain consistency in the resulting calculation process and to enable effective management of changes to the data flows."³⁹

34. **Observations.** The deficiencies in SBC's performance monitoring and reporting processes are also illustrated by the observations that have been opened during the BearingPoint Michigan test. Although a number of observations have been closed since AT&T filed its opening comments, twelve new observations have been opened.⁴⁰

³⁹ *Id.* at 2.

⁴⁰ The twelve observations are Observations 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, and 813.

35. On February 17, 2003, BearingPoint opened Observation 807 in the PMR4 test, finding that SBC “appears to be missing troubles used in the calculation of seven (7) Maintenance and Repair performance measures” in its reported results for January, February March, April and May 2002.⁴¹ SBC’s inappropriate exclusion of troubles from its data during these months demonstrates that SBC’s maintenance and repair data in its Application should and must be viewed with skepticism.

36. On February 17, 2003, BearingPoint also opened Observation 809 in the PMR4 test (as well as the PMR5 test), finding that SBC “appears to be using inaccurate data when calculating performance results for Performance Measurement 10 (Percent Mechanized Rejects Returned Within One Hour of Receipt of Reject in MOR) and Performance Measurement 11 (Mean Time to Return Rejects).⁴² In this observation, BearingPoint noted that the business rules governing the measures state that the “[t]he start time . . . is the date and time the reject is available to MOR and the end time is the date and time the reject notice is sent to the CLEC.”⁴³ However, BearingPoint found that, with respect to 40 percent of the mechanized rejection transactions examined, SBC reported negative durations. Noting that negative durations are impossible, BearingPoint found that SBC does not appear to “maintain synchronicity between the

⁴¹ BearingPoint Observation 807, dated February 17, 2003. The seven affected measurements are Performance Measures 38 (Percent Missed Repair Commitments); 39 (Receipt to Clear Duration); 40 (Percent Out of Service < 24 Hours); 52 (Mean Time to Restore); 66 (Percent Missed Repair Commitments); 67 (Mean Time to Restore); and 68 (Percent Out of Service < 24 Hours).⁴¹ BearingPoint found that, of 193 troubles reported in Michigan, 24 transactions (approximately 12 percent) were missing from SBC’s performance data.

⁴² BearingPoint Observation 809, dated February 17, 2003.

⁴³ *Id.*

two applicable time-stamping mechanisms.”⁴⁴ BearingPoint also found that, although SBC asserted that it adjusts transactions with a negative duration by using a “0” time duration, this adjustment “does not yield accurate performance measurement results [and could make] other ‘positive’ durations appear shorter than their actual length.”⁴⁵

37. In the PMR4 and PMR5 tests, BearingPoint also opened Observation 810 on February 17, 2003, finding that SBC failed to adhere to the July 2002 business rules when calculating results for Performance Measurement 55.3 (Percent xDSL - Capable Loop Orders Requiring the Removal of Load Coils and/or Repeaters).⁴⁶

38. On February 13, 2003, BearingPoint opened a number of observations in the PMR5 test, finding that it could not replicate SBC’s July 2002 performance data for: Performance Measurement 92 (Percentage of Time the Old Service Provider Releases the Subscription Prior to the Expiration of the Second 9 Hours (T2) Timer);⁴⁷ Performance Measurement 96 (Percentage Pre-Mature Disconnects for LNP Orders);⁴⁸ and Measurement 97 (Percentage of Time SBC Ameritech Applies the 10-Digit Trigger Prior to the LNP Order Due Date).⁴⁹

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ BearingPoint Observation 810, dated February 17, 2003.

⁴⁷ BearingPoint Observation 802, dated February 13, 2003.

⁴⁸ BearingPoint Observation 805, dated February 13, 2003.

⁴⁹ BearingPoint Observation 806, dated February 13, 2003.

39. In Observation 803 opened on February 13, 2003 in the PMR5 test, BearingPoint also found that SBC is incorrectly applying exclusions when calculating results for Performance Measurement 10 (Percent Mechanized Rejects Returned Within One Hour of Receipt of Reject in System) and Performance Measurement 11 (Mean Time to Return Mechanized Rejects).⁵⁰ In this observation, BearingPoint found that SBC was improperly excluding from its performance results Complex LNP orders with more than 50 lines.

40. In three observations opened on February 27, 2003 in the PMR5 test, BearingPoint found that: (1) SBC's reported results for PM 2 (Percent Response Received Within "X" Seconds – OSS Interfaces) do not comply with July, August and September 2002 business rules because they inappropriately exclude certain weekday transactions and incorrectly include certain Saturday transactions;⁵¹ (2) it could not replicate SBC's restated July 2002 results for PM 2 (Percent Response Received Within "X" Seconds);⁵² and (3) SBC has improperly implemented the July, August and September 2002 business rules for PM CLEC WI 1 (Average Delay in Original FOCs Due Dates Due to Delay Notices (Issue F)).⁵³

41. Significantly, there are multiple observations associated with 104 performance measures that have repeatedly failed the PMR5 metrics replication test. These

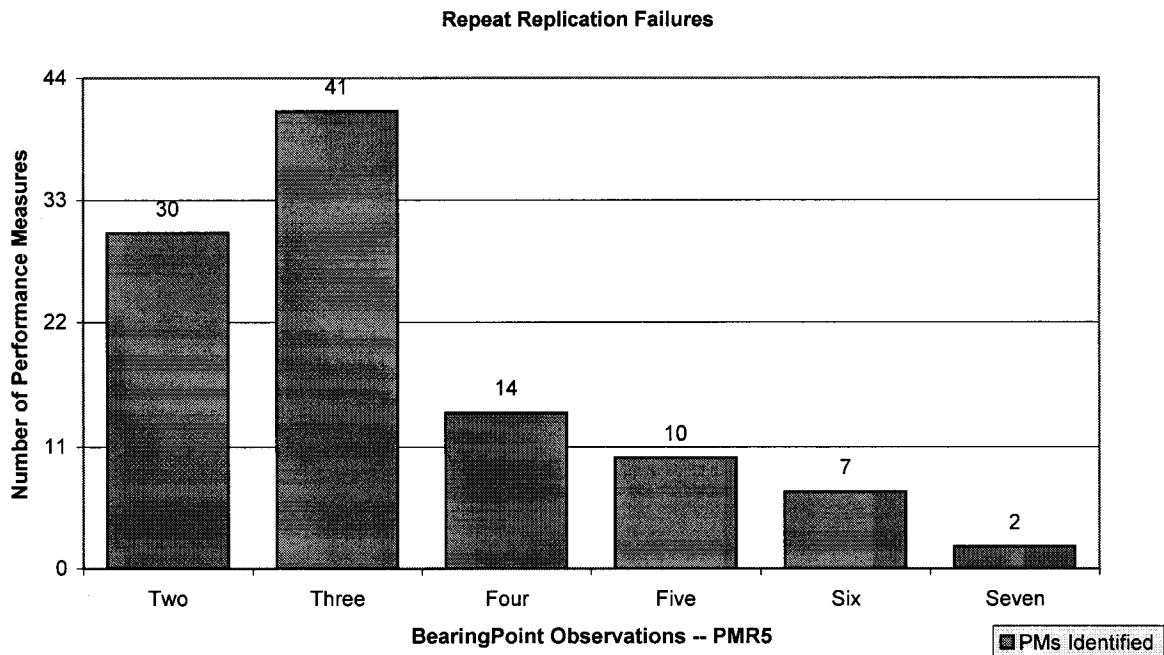
⁵⁰ BearingPoint Observation 803, dated February 13, 2003.

⁵¹ BearingPoint Observation 811, dated February 27, 2003.

⁵² BearingPoint Observation 812, dated February 27, 2003.

⁵³ BearingPoint Observation 813, dated February 27, 2003.

repeated failures reflect SBC's demonstrated inability to generate accurate reported results for these measures as shown by the histogram below:



42. The performance measurements that have suffered from multiple failures during the PMR5 test include many measures that this Commission has considered in assessing Section 271 compliance. As noted above, in prior applications, this Commission has examined flow through data in determining whether the BOC has provided nondiscriminatory access to its OSS. However, SBC's performance data on PMs 13 (Order Processing Percent Flow Through) and 13.1 (Total Order Process Percent Flow Through) have failed the PMR5 test multiple times.

43. Thus, for example, in Observation 299 opened on April 3, 2002, BearingPoint found that it could not replicate SBC's October 2001 reported data for PM 13.1

(Total Order Process Percent Flow Through).⁵⁴ In Observation 488 opened on June 3, 2002, BearingPoint found that SBC failed to comply with published business rules by improperly excluding revisions to orders when calculating its PM 13.1 results for UNEs.⁵⁵ In Observation 591 opened on August 6, 2002, BearingPoint found that it could not replicate SBC's January 2002 results for PM 13.1.⁵⁶ On September 23, 2002, BearingPoint opened Observation 661, finding that SBC was improperly excluding project orders from its PM 13.1 results for January, February, and March 2002.⁵⁷ On January 16, 2003, BearingPoint found, in Observation 787, that SBC was improperly "excluding orders with particular order class codes" when calculating its results for PM 13.1 for July, August, and September 2002.⁵⁸ The chronic failure of PM 13.1 to satisfy the PMR5 replication test shows that SBC's performance data are highly suspect, and that its claims of exemplary performance on this measure should not be credited.⁵⁹

44. Similarly, this Commission has repeatedly stressed the "critical" importance of timely jeopardy notices to CLECs so that they can inform their customers when services will not be installed on the scheduled due date and promptly reschedule the time for service installation.⁶⁰ However, SBC's performance data on PM 10.4 (Percentage of Orders

⁵⁴ BearingPoint Observation 299, dated April 3, 2002.

⁵⁵ BearingPoint Observation 488, dated June 3, 2002. *See also* BearingPoint Observation 488, Version 2, dated June 17, 2002.

⁵⁶ BearingPoint Observation 591, dated August 6, 2002.

⁵⁷ BearingPoint Observation 661, dated September 23, 2002. *See also* BearingPoint Observation 661, Version 2, dated November 26, 2002.

⁵⁸ BearingPoint Observation 787, dated January 16, 2003.

⁵⁹ *See, e.g., Cottrell Aff.* ¶¶ 167-168.

⁶⁰ *See, e.g., First Louisiana Order*, ¶ 39; *Second Louisiana Order*, ¶¶ 131, 133.

Given Jeopardy Notices) have repeatedly failed the PMR5 test and have been the subject of seven observations which show the following:

- SBC's posted results for PM 10.4 do not comply with the January and February 2002 published business rules.⁶¹
- SBC's reported results for PM 10.4 do not comply with the January, February, and March 2002 business rules because SBC "has been incorrectly marking some unbundled loop orders as related orders, causing them to be incorrectly categorized."⁶²
- SBC's reported results for PM 10.4 do not comply with the January, February, and March 2002 business rules because of transaction timestamp errors.⁶³
- SBC's reported results for PM 10.4 do not comply with the January, February and March 2002 business rules because SBC captures only those "jeopardies that are issued within 24 hours of the due date for the retail analogs of this measure."⁶⁴
- SBC is improperly applying exclusions when calculating its January, February, and March 2002 results of PM 10.4.⁶⁵
- SBC is improperly applying exclusions when calculating its July, August, and September 2002 results of PM 10.4.⁶⁶

⁶¹ BearingPoint Observation 534, dated June 17, 2002.

⁶² BearingPoint Observation 583, dated July 24, 2002.

⁶³ BearingPoint Observation 676, dated October 9, 2002. *See also* BearingPoint Observation 676, Version 2, dated November 21, 2002.

⁶⁴ BearingPoint Observation 684, dated October 23, 2002. *See also* BearingPoint Observation 684, Version 2, dated November 21, 2002.

⁶⁵ BearingPoint Observation 687, dated October 23, 2002. *See also* BearingPoint Observation 687, Version 2, dated November 21, 2002.

⁶⁶ BearingPoint Observation 725, dated December 3, 2002.

- SBC's posted data for PM 10.4 do not comply with the July, August, and September 2002 business rules because SBC has excluded "system downtime, weekends and holidays."⁶⁷

45. In prior 271 applications, this Commission also has examined performance data on completion notices in assessing whether the BOC has satisfied its statutory obligations.⁶⁸

However, SBC's performance data on PM 7.1 (Percent Mechanized Completions Returned Within One Day of Work Completion) have been the subject of five observations during the PMR5 metrics replication test which reveal that:

- BearingPoint could not replicate SBC's October 2001 PM 7.1 results for UNEs.⁶⁹
- SBC does not follow the published business rules governing PM 7.1 and has improperly excluded Stand-Alone LNP Orders from the UNE disaggregation for October 2001 results.⁷⁰
- SBC's reported results for PM 7.1 do not comply with January, February, and March 2002 published business rules because SBC has improperly excluded Stand-Alone LNP Orders from the UNE disaggregation.⁷¹
- SBC's reported results for PM 7.1 do not comply with the January, February, and March 2002 published business rules because SBC used business days instead of calendar days in its calculations.⁷²

⁶⁷ BearingPoint Observation 756, dated December 17, 2002. *See also* BearingPoint Observation 756, Version 2, dated January 21, 2003.

⁶⁸ *See, e.g., Second Louisiana Order*, ¶ 30; *Georgia/Louisiana Order*, ¶¶ 153-154.

⁶⁹ BearingPoint Observation 297, dated April 3, 2002.

⁷⁰ BearingPoint Observation 430, dated May 2, 2002.

⁷¹ BearingPoint Observation 493, dated June 3, 2002.

⁷² BearingPoint Observation 659, dated September 23, 2002.

- SBC improperly includes “CLEC-caused misses and delays” when calculating its PM 7.1 results for July and August 2002.⁷³

46. Other performance metrics that have repeatedly failed the PMR5 metrics replication test include: PMs 43 and 55, which measure average installation intervals; PMs 17 (Billing Completion) and 19 (Daily Usage Feed Timeliness); and PM 67 (Mean Time to Restore). In prior applications, this Commission has examined performance data on such measurements in assessing Section 271 compliance.⁷⁴ Attachment A contains a comprehensive list of performance measures that have repeatedly failed the PMR5 test and which have been mapped to observations discussing the deficiencies in these measures.

47. The chronic failures of SBC’s performance measures to satisfy PMR5 replication testing show that SBC has not met and cannot meet its burden of demonstrating that its data are accurate, complete and reliable.⁷⁵ Moreover, given the substantial problems regarding the integrity of SBC’s data that have been uncovered to date and the testing that remains to be completed, it is entirely possible that new exceptions and observations could be

⁷³ BearingPoint Observation 743, dated December 12, 2002.

⁷⁴ See, e.g., *Michigan 271 Order*, ¶ 212 (referring to performance data on average installation intervals and billing); *id.*, ¶ 221 (referring to billing and usage data); *First Louisiana 271 Order*, ¶ 41 (noting that “[a] critical measure in determining whether a BOC has been providing competing carriers with nondiscriminatory access to its operational support systems is average installation intervals”) (footnote omitted); *New York 271 Order*, ¶ 202 (referring to average installation intervals); *id.*, ¶ 221 (referring to mean time to restore); *id.*, ¶ 227 (referring to billing data).

⁷⁵ As of February 28, 2003, the open exceptions in the Michigan PMR test are: 41, 111, 119, 134, 157, 175, 176, 179, 181, 183, 186, 187, and 188. The observations which are open as of February 28, 2003 are: 429, 461, 488, 538, 547, 570, 584, 587, 594, 613, 619, 623, 624, 625, 627, 630, 631, 633, 637, 638, 639, 642, 643, 645, 661, 664, 676, 679, 684, 686, 687, 688, 697, 709, 710, 717, 721, 725, 727, 729, 732, 737, 738, 739, 747, 748, 749, 755, 763, 766, 767, 768, 769, 771, 772, 776, 778, 785, 786, 787, 791, 792, 793, 794, 796, 797, 798, 800, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, and 813.

opened. For all of these reasons, SBC's application is premature, and SBC cannot legitimately contend it has satisfied its burden of proof in this proceeding.

**III. E&Y'S THIRD CORRECTIVE ACTION REPORT CONFIRMS THAT
SBC'S DATA INTEGRITY ISSUES REMAIN UNRESOLVED.**

48. As AT&T explained in its opening comments, SBC's arguments that the E&Y audit serves as proof that its data are accurate and reliable are belied by: (1) the fact that SBC hand-picked its financial auditor to conduct an end-run around the audit conducted by BearingPoint under a Master Test Plan that had been approved by the MPSC; (2) the procedural and substantive deficiencies in E&Y's audit procedures, including the lack of military-style testing to assure that SBC had taken appropriate action to correct defects in its data; (3) E&Y's own reports which are littered with issues highlighting the unreliability of SBC's data; and (4) the defects in SBC's performance monitoring and reporting processes which BearingPoint continues to uncover and which E&Y failed to detect.⁷⁶

49. On February 28, 2003, SBC filed before the MPSC an update on the current status of the corrective action it purportedly has taken to address E&Y's findings, along with E&Y's Supplemental Report Regarding Management's Assertions dated February 28,

⁷⁶ See Moore/Connolly Aff. ¶¶ 100-145. See also CLECA at 3-5; TDS MetroCom at 11-17; WorldCom at 13-14. In Appendix B to its Supplemental Report, E&Y identified 35 failures in SBC's interpretations of the business rules that it uncovered purportedly as a result of transaction testimony. However, these 35 errors are a small subset of the 130 audit failures that E&Y identified in its October 2002 report. There are no statements in E&Y's October 2002 report which suggest that it uncovered the remaining 95 errors as a result of transaction testing. E&Y was given full access to the BearingPoint exceptions and observations, including SBC's responses to BearingPoint's data requests. Thus, it would appear that E&Y became aware of these 95 audit failures as a result of information that it obtained regarding BearingPoint's findings.

2003.⁷⁷ E&Y's Third Corrective Action Report and SBC's update provide further confirmation that SBC's data are untrustworthy, and that its Application is premature.

50. In its Third Corrective Action Report E&Y states that, with two exceptions, it has examined the assertions of SBC's management regarding the status of SBC's remedial steps "to address instances of material noncompliance with the Michigan Business Rules."⁷⁸ The Third Corrective Action Report discusses, *inter alia*, exceptions that ostensibly have been corrected by SBC as a result of restatements on February 5, 2003; corrective actions that SBC has implemented on January 20 or February 20, 2003; and exceptions which "are pending corrective action."⁷⁹

51. As AT&T has previously explained, because of the flawed methodology that E&Y has used to test SBC's corrective action, there is no sound basis upon which any conclusion can be reached that SBC has successfully resolved the deficiencies in its data that have been identified by E&Y. Relatedly, as discussed in Part IV below, the ICC Staff has separately concluded that, because of the limited testing E&Y has conducted, no solace can or

⁷⁷ See SBC Submission of Supplemental Ernst & Young Reports and Update on Current Status of Corrective Actions, attaching E&Y Report of Independent Accountants, dated February 28, 2003 and SBC Report of Management on Changes Implemented to the Reporting of Performance Measurements Pursuant to the Michigan Business Rules, dated February 28, 2003 ("Third Corrective Action Report"), *In the Matter, on the Commission's own Motion to Consider Ameritech Michigan's Compliance with the Competitive Checklist in Section 271 of the Telecommunications Act of 1996*.

⁷⁸ See Third Corrective Action Report.

⁷⁹ See SBC Report of Management on Changes Implemented to the Reporting of Performance Measurements Pursuant to the Michigan Business Rules, dated February 28, 2003 at 2, Third Corrective Action Report.

should be taken that SBC has implemented the necessary corrective steps to assure that its September-November 2002 data upon which it relies are accurate.

52. Even assuming *arguendo* that SBC has, in fact, implemented the corrective steps it describes in its Third Corrective Action Report – and there is no reliable, verifiable proof that it has – it is particularly telling and disturbing that it has taken SBC such an extraordinarily long time to correct a *portion* of the deficiencies in its March, April and May 2002 data (which are now 10-12 months old) that E&Y documented in its October 2002 report. To make matters worse, by SBC’s own admission, it still has not corrected all of the problems that E&Y has identified.

53. Thus, for example, E&Y found that SBC failed to identify DSL transactions by geographic region as required by the business rules governing PMs 55.1, 55.3, 56, 58, 59, 60, 61, 62, 63, and 65. SBC states that it has implemented a new code to correct these problems and *plans to restate* its July through December 2002 results in the second quarter of 2003.⁸⁰

54. Additionally, E&Y found that SBC improperly excluded wholesale transactions from its reported results for PM MI 12 (Average Time to Clear Service Order Errors). SBC reports that, commencing with its January 2003 results, it starting capturing these records, and that, “[i]f possible and required, July 2002 through December 2002 results will be

⁸⁰ *Id.*, Attach. A at 7, Issue IV-15.

scheduled for restatement in the second quarter of 2003.” In that connection, SBC notes that its “ability to restate is *being evaluated*.”⁸¹

55. In the Third Corrective Action Report, SBC also admits that it has not yet completed its implementation of other remedial steps that are necessary to cure the defects in its data. Thus, SBC concedes that:

- SBC has not yet implemented the computer programming changes to include orders involving projects in its reported results for PM 91 (Percentage of LNP Only Due Dates Within Industry Guidelines);⁸²
- SBC has experienced yet another delay in implementing the computer code changes to address E&Y’s findings that SBC failed to exclude CLEC-caused delayed unlocks in calculating its results for PM 104.1 (Average Time It Takes to Unlock the 911 Record).⁸³
- SBC plans to implement with its results reported in March 2003 a new programming code to address E&Y’s finding that it “incorrectly reported internal orders impacting the CLEC portion of a partially ‘won-back’ account as wholesale orders during March, April and May, 2002”;⁸⁴
- With its results reported in March 2003, SBC plans to implement corrective steps to address E&Y’s finding that SBC failed to report “the UNE-P level of disaggregation for electronically processed completion notices” when calculating its results for MI 14 (Percent Completion Notifications Returned Within “X” Hours of Completion of Maintenance Trouble Ticket);⁸⁵
- SBC plans to implement computer programming changes in its February results reported in March 2003 to address E&Y’s finding that customer-caused no-access

⁸¹ *Id.*, Issue IV-27 (emphasis added).

⁸² *See id.* at 9, Issue No. III-10(ii).

⁸³ *See id.*, Issue No. II-B-8(ii).

⁸⁴ *Id.* at 10, Issue No. IV-12.

⁸⁵ *Id.*, Issue No. IV-28.

reports were inappropriately included in its performance results for PM WI 1 (Percent No Access – UNE Loops Provisioning);⁸⁶

- SBC plans to implement, effective with its February 2003 results reported in March 2003, a computer programming code to address E&Y's finding that it did not include data for UNEs and Specials when reporting its results for C WI 5 (Percentage of Protectors Not Removed at Technician Visit (Issue O)).⁸⁷

56. Furthermore, in its Third Corrective Action Report, E&Y states that it has *not* examined and, therefore, renders *no* opinion with respect to the computer program code changes SBC claims to have made to address E&Y's findings that: (1) SBC failed to capture customer-requested due dates when calculating its performance results for PM 27 (Mean Installation Interval) and 28 (Percent POTS/UNE-P Installations Completed Within the Customer Requested Due Date); and (2) SBC used the wrong field when determining the "exclusion for customer-requested due dates in excess of the stated time period" when calculating its results for PMs 43, 44, 55, 55.1, 56, and 56.1.⁸⁸ As to these issues, SBC states that it has implemented a computer code to fix these defects in the data, but that it plans to restate its July through December 2002 results in the second quarter of 2003. Because E&Y has unequivocally stated that it has not undertaken any review of these assertions, the current record is bereft of any evidence confirming that these coding changes have corrected or will correct SBC's errors in calculating performance results for these provisioning measures. And, of course, it remains to be seen whether SBC's restatements accurately reflect SBC's performance.

⁸⁶ *Id.* at 11, Issue IV-30.

⁸⁷ *Id.*, Issue No. IV-31.

⁸⁸ *Id.* at 6, Issue Nos. IV-11 and IV-14(ii).

57. Thus, even at this late date, by its own admission, SBC still has not resolved the deficiencies that E&Y identified during its audit and corrected all errors in its performance data. These admissions underscore that the performance data for these measures in SBC's Application are inaccurate. If and when SBC finally completes all corrective steps necessary to correct its error-ridden processes, there must, and should, be verifiable evidence that SBC's corrective action has successfully resolved the data integrity issues, and that its restated data are accurately reported. Such confirmation is absolutely essential, particularly given the considerable difficulties BearingPoint is currently experiencing in attempting to replicate SBC's restated results.

58. Importantly, in its most recent status report, SBC also has admitted that its "final report" on the status of its corrective action will not be filed until the *second quarter of 2003*. Thus, it is clear that the deficiencies in SBC's data that E&Y identified in its albeit, flawed audit will not be resolved for some time. Given these circumstances, as well as the significant data integrity issues that BearingPoint continues to uncover, SBC cannot seriously contend that the E&Y audit serves as probative evidence that the performance data upon which it relies are accurate and show checklist compliance. The procedural and substantive deficiencies in the E&Y audit, standing alone, preclude such a finding. And, in all events, even E&Y's flawed audit reveals that considerable work remains to be done before SBC can legitimately contend that its performance data are reliable.

**IV. THE ILLINOIS COMMERCE COMMISSION STAFF HAS
CONCLUDED THAT SBC'S DATA ARE INACCURATE AND
UNRELIABLE.**

59. In its Application, SBC contends that the results in BearingPoint's Michigan PMR test should "mimic" those in BearingPoint's Illinois PMR test and entreats this Commission to consider the purported progress that SBC has made in satisfying test points in the Illinois PMR test.⁸⁹ As described in more detail below, based upon an examination of the BearingPoint and E&Y audits (together with SBC's other proffered evidence of purported indicia of data reliability), the ICC Staff has concluded that SBC's performance data are "*not reliable and should not be used as evidence of SBC Illinois' compliance with the Section 271 checklist, nor as a public interest component, nor [as] an assurance that the company will not backslide in its performance once granted Section 271 approval by the Federal Communications Commission . . .*"⁹⁰

60. **Analysis of BearingPoint Audit.** Consistent with its approach in this proceeding, SBC argued in the Illinois 271 proceedings that "none of BearingPoint's findings to date in its Metrics Review are sufficient enough to warrant a finding of non-compliance, or to preclude the Commission from evaluating SBC Illinois' compliance with the 14-point checklist."⁹¹ The ICC Staff soundly rejected SBC's arguments.

⁸⁹ Ehr Aff., ¶ 237.

⁹⁰ ICC Staff Weber Aff., ¶ 4.

⁹¹ ICC Staff Weber Aff., ¶ 56; Ehr Aff., ¶ 235.

61. Noting that SBC has satisfied 23.7 percent and failed 42.8 percent of the Illinois PMR test criteria and that 33.6 percent of the test criteria are “Indeterminate,” the ICC Staff stated that SBC failed to meet its burden of demonstrating that its data are accurate and reliable.⁹² The ICC Staff found that, notwithstanding the “more than 2-1/2 years” SBC has had “to develop, deploy and perfect its performance measurements and reporting system . . . far too many inaccuracies and problems remain for the [Illinois Commerce] Commission to have confidence in the current and future accuracy of the performance measure data SBC Illinois reports.”⁹³ Indeed, the ICC Staff found that BearingPoint’s findings in the Illinois PMR test “taken alone – and without even considering the findings in the E&Y evaluation . . . raise serious doubt as to the integrity and accuracy of SBC Illinois’ performance measurement data and SBC Illinois’ ability to produce the data, which contradict the statements of [SBC’s witness] Mr. Ehr.”⁹⁴

62. After commenting on the critical importance of the data collection and storage processes in assuring the accuracy of data and conducting thorough audits,⁹⁵ the ICC Staff pointed out that SBC satisfied only 10 percent and failed 48 percent of the test criteria in the PMR1 test which evaluates SBC’s data collection and storage processes. Noting that none of the seven test criteria for the PMR1 test had “a complete set of satisfied results” and that

⁹² ICC Staff Weber Aff., ¶ 55.

⁹³ *Id.*, ¶ 48.

⁹⁴ *Id.*, ¶ 53.

⁹⁵ ICC Staff Weber Aff., ¶ 58.

BearingPoint had unearthed significant defects regarding the accuracy and completeness of SBC's data collection, storage process, and technical requirements documentation, the ICC Staff concluded that BearingPoint's findings "raise too many questions to trust that SBC Illinois has adequate data collection and storage practices and procedures in place to be able to report its performance metrics data in an accurate and consistent manner."⁹⁶

63. Furthermore, the ICC Staff concluded that BearingPoint's findings in the PMR3 test regarding SBC's metrics change management practices revealed "*grave deficiencies*" in SBC's processes, stating:

Specifically, BearingPoint has observed instances where SBC Illinois' metrics change management process does not provide for the monitoring of source systems for changes that impact metrics reporting; SBC Illinois does not comply with intervals for implementing changes to metrics business rules; SBC Illinois does not have adequately defined procedures or tools to test changes to calculation programs, processes; and systems involved in the production and reporting of performance measurements and that performance metrics changes did not follow the documented metrics change management process. These findings reflect *grave deficiencies* in key processes that a company needs to have in place to implement changes to its performance measurements without impacting the integrity or accuracy of the data being reported.⁹⁷

64. In discussing the results of BearingPoint's PMR4 test (Data Integrity), the ICC Staff noted that: (1) BearingPoint had uncovered data integrity issues affecting 8 measure groups;⁹⁸ (2) BearingPoint could not even conduct a data integrity review for five measure

⁹⁶ *Id.*, ¶¶ 61-62.

⁹⁷ *Id.*, ¶ 66 (emphasis added).

⁹⁸ The 8 affected measure groups are: Ordering, Provisioning, Billing, 911, Coordinated Conversions, Bona Fide Requests and Other. *Id.*, ¶ 71.

groups;⁹⁹ (3) investigation of the remaining measure groups is still underway; and (4) BearingPoint had issued a number of exceptions in the PMR4 test since the release of its report. The ICC Staff found that, in these circumstances, “[s]uccessful completion of this test is very important, as data integrity problems, such as missing data or incorrect transformation of data, may result in performance measurements being misstated.”¹⁰⁰

65. The ICC Staff also recounted the history of BearingPoint’s efforts to attempt to replicate SBC’s reported values during the PMR5 test. As the ICC Staff explained (and, as AT&T pointed out in its opening comments), BearingPoint initially attempted to conduct PMR5 testing by analyzing SBC’s April 2001 reported results.¹⁰¹ However, because of inadequacies in SBC’s performance measurement processes, practices, and documentation, BearingPoint targeted SBC’s October 2001 results for PMR review.¹⁰² When BearingPoint continued to uncover fundamental infirmities in SBC’s data, SBC next selected January 2002 for PMR5 testing.¹⁰³ The ICC Staff noted, however, that “[i]n the summer of 2002, the test again came to a point where . . . a large number of corrections and clarifications or restatements had to

⁹⁹ The five measure groups are Miscellaneous Administrative, Directory Assistance/Operator Services, Poles, Conduits and Right-of-Way, Collocations, and Directory Assistance Database. *Id.*, ¶ 72 (footnote omitted).

¹⁰⁰ ICC Staff Weber Aff., ¶ 71.

¹⁰¹ *Id.*, ¶ 75; *see also* Moore/Connolly Decl., ¶ 43.

¹⁰² *Id.*

¹⁰³ *Id.*

be made to the January 2002 data.”¹⁰⁴ As a result, SBC then targeted July and August 2002 for PMR5 testing.¹⁰⁵

66. Significantly, after reviewing BearingPoint’s PMR5 findings, the ICC Staff concluded that “[i]t is clear that the PMR5, data replication, review by BearingPoint is not complete, and BearingPoint has been unable to verify that the company calculates its performance measurements correctly and in accordance with the Company’s approved business rules.”¹⁰⁶

67. In summarizing the results of the BearingPoint PMR test, the ICC Staff found that BearingPoint’s findings crystallize this salient fact: SBC’s performance data cannot properly be relied upon to demonstrate statutory compliance, stating:

Of the five primary test families that BearingPoint conducted tests upon, SBC Illinois has only satisfied the PMR2 review. SBC Illinois has been unable to demonstrate to BearingPoint that it can satisfy the evaluation criteria with respect to its data collection and storage capabilities, its metrics change management polices and practices, its performance measurement data integrity and its ability to calculate its performance measurement results and retail analogs. The specific metrics deficiencies reported by BearingPoint . . . and the evaluation criteria BearingPoint has been unable to opine upon 26 months after beginning the evaluation of SBC Illinois’ performance metrics data and reporting systems, provides clear indication that there is more work to be done and that at this time the Commission should not rely upon the performance measurement data being reported by the company.¹⁰⁷

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ ICC Staff Weber Aff., ¶ 77.

¹⁰⁷ *Id.*, ¶ 78.

68. Additionally, although BearingPoint's most recent project plan indicates that the PMR review in Illinois "is scheduled to complete in June 2003," the ICC Staff found that given "the repeated delays" since the test's inception, "it is unlikely that the review will be successfully completed within the June 2003 timeframe."¹⁰⁸

69. **Analysis of E&Y Audit.** The ICC Staff also concluded that the "findings in the E&Y report present strong evidence" that SBC's performance data are "unreliable."¹⁰⁹ As a preliminary matter, the ICC Staff pointed out that SBC hired E&Y after BearingPoint had been approved by the ICC to conduct third-party testing.¹¹⁰ After noting that "portions of BearingPoint's PMR1 test, and all of its PMR2 and PMR3 tests were not covered by E&Y's examination," and that E&Y's methodologies for determining compliance with test criteria were quite different from those used by BearingPoint in the ICC-approved Master Test Plan, the ICC Staff found that the E&Y audit is not and cannot be considered a suitable surrogate for BearingPoint's PMR4 and PMR5 tests.¹¹¹

70. In its analysis, the ICC Staff addressed E&Y's findings which accepted, without challenge, SBC's interpretations of the business rules governing the metrics.¹¹²

¹⁰⁸ *Id.*, ¶ 79. The ICC Staff's observation is entirely correct and is squarely at odds with that of the Department of Justice, which notes in its evaluation that the BearingPoint audit will be completed before SBC applies for 271 approval for other states. *See* Evaluation of the United States Department of Justice, *Michigan 271 Proceeding*, dated February 26, 2003 at 16.

¹⁰⁹ ICC Staff Weber Aff. ¶ 83.

¹¹⁰ *Id.* ¶ 81.

¹¹¹ *Id.* ¶ 86.

¹¹² ICC Staff Weber Aff. ¶ 100. *See also* Moore/Connolly Decl. ¶¶ 116-118.

Consistent with its approach here, SBC attempted to justify E&Y's blind acceptance of SBC's interpretations of the business rules by pointing out that the participants in the six-month review had agreed to approximately 30 of the 50 interpretations which required changes to the business rules.¹¹³ However, the ICC Staff observed that the interpretations at issue "are the definitional liberties that SBC Illinois has taken with specific performance measure business rule documents."¹¹⁴ The ICC Staff also pointed out that modifications to the business rules governing the metrics "are discussed, agreed upon by participants in the six-month review collaborative, approved by the [Illinois Commerce] Commission and then implemented on a *prospective* basis."¹¹⁵ Noting that approximately 30 of SBC's interpretations required modifications to the business rules, and that these modifications were not in effect during the March-May 2002 evaluation period, the ICC Staff found that SBC "has not reported its performance results in compliance with the business rules for the performance measures at issue during the E&Y evaluation period or for the September-October 2003 data submitted by the company as evidence of compliance to the 271 checklist in this proceeding"¹¹⁶

¹¹³ Affidavit of James D. Ehr, dated January 17, 2003, *Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996*, Docket No. 01-0662 ("1/17/03 Ehr Ill. Aff."), ¶ 232; Ehr Aff., ¶¶ 221-222. In Michigan, E&Y reported that it accepted 49 interpretations made by SBC's management. See Ehr. Aff., ¶ 221. In contrast, in Illinois, "E&Y reported a total of 50 business rule interpretations." ICC Staff Weber Aff., ¶ 101.

¹¹⁴ ICC Staff Weber Aff., ¶ 99.

¹¹⁵ *Id.*, ¶ 103 (emphasis added).

¹¹⁶ *Id.*

71. Furthermore, consistent with its arguments here, SBC argued that it has implemented corrective action in response to E&Y's findings, and that E&Y has confirmed that SBC has taken such action.¹¹⁷ However, the ICC Staff found that: SBC has not implemented all of the steps necessary to cure the defects in its data;¹¹⁸ SBC has not yet restated all of its performance results that are error-ridden;¹¹⁹ and "there has been no verification performed by an independent party" to verify that the corrective action as reflected in the restated results has resolved the performance data deficiencies.¹²⁰ Citing E&Y's testimony at hearing, the ICC Staff found that E&Y provided "no assurance" to indicate that the data months "beyond May 2002 no longer contain the data inaccuracies" identified in SBC's March, April, and May performance data.¹²¹ Critically, the ICC Staff also explained that the defects in SBC's data during the evaluation period "go right to the heart" of SBC's "accuracy and reliability problems, and are predictors of possible future problems, if not addressed."¹²² Noting that SBC has addressed only some of the deficiencies E&Y identified, and that "E&Y performed limited validation for these corrections," the ICC Staff found that "[t]hese failings are . . . significant and undermine the ability for any party to properly evaluate" the performance data upon which SBC relies.¹²³

¹¹⁷ See, e.g., ICC Staff Weber Aff., ¶ 92; 1/17/03 Ehr Ill. Aff., ¶ 226-228; Ehr Aff., ¶¶ 207, 210.

¹¹⁸ See, e.g., ICC Staff Weber Aff., ¶¶ 93-95, 97.

¹¹⁹ *Id.*, ¶ 95.

¹²⁰ ICC Staff Weber Aff., ¶ 95.

¹²¹ ICC Staff Weber Aff., ¶ 92.

¹²² *Id.*, ¶ 94.

¹²³ ICC Staff Weber Aff. ¶ 98.

72. Furthermore, although SBC argued – as it does here – that it has undertaken extensive measures to enhance the controls in its performance monitoring and reporting processes,¹²⁴ the ICC Staff found SBC’s arguments unpersuasive. The ICC Staff concluded that the adequacy of SBC’s purported corrective steps to resolve control deficiencies remains unclear, and that SBC cannot demonstrate that these deficiencies have been resolved until it “can consistently report its performance measures with accuracy and integrity on a monthly basis and an independent third party provides verification of this fact.”¹²⁵

73. Moreover, the ICC Staff found that SBC’s “[r]estatements to correct errors *six months* after posting data should not be deemed acceptable,” and that “the frequency of restatements and the timing of restatements, well after initially posting performance measure data, point to an inherent problem with SBC Illinois’ process controls within its performance metrics organization.”¹²⁶ The ICC Staff found that, because of the serious deficiencies in SBC’s internal data controls, there is no evidence that SBC’s “internal controls today provide assurance of data reliability now or in the future.”¹²⁷

74. In addition, the ICC Staff rejected SBC’s arguments that the performance remedy enforcement plan provides additional assurance that SBC will comply with its obligations in the wake of Section 271 relief.¹²⁸ The ICC Staff found that the “efficacy” of the

¹²⁴ See, e.g., 1/17/03 Ehr Ill. Aff., ¶¶ 233-243.

¹²⁵ ICC Staff Weber Aff. ¶ 109.

¹²⁶ *Id.* (emphasis in original).

¹²⁷ *Id.*, ¶ 115.

¹²⁸ See 1/17/03 Ehr Ill. Aff., ¶ 303.

performance monitoring plan upon which SBC relies to demonstrate future statutory compliance “is seriously undermined” because the performance data inputs which serve as the basis for remedy calculations are inaccurate and unreliable.¹²⁹

75. The ICC Staff also categorically rejected SBC’s arguments – which are similar to those it raises here – that other indicia of reliability (such as continued monitoring by the ICC, internal and external controls, and the data reconciliation process) should provide additional assurance of the reliability of SBC’s performance data.¹³⁰ The ICC Staff found that these purported “assurances of reliability . . . do not provide Staff or the [Illinois Commerce] Commission sufficient confidence that the deficiencies in SBC’s performance data that have been uncorrected to date can be overlooked.”¹³¹

76. Based upon the pool of evidence that SBC presented in the Illinois proceedings – which mirrors the evidence that SBC has presented before this Commission -- the ICC Staff concluded that the performance data upon which SBC so heavily relies for approval are neither “accurate nor reliable.”¹³² The testimony of the ICC Staff regarding the serious defects

¹²⁹ *Id.*, ¶ 118.

¹³⁰ ICC Staff Weber Aff., ¶ 111; 1/17/03 Ehr Ill. Aff., ¶¶ 292-302. *See also* Ehr Aff., ¶ 265 (noting that “[i]n addition [to] the extensive and comprehensive third party reviews of Michigan Bell’s performance data, there are three additional assurances of reliability: on-going supervision by the MPSC, data reconciliation and access to raw data and Michigan Bell’s data controls.”).

¹³¹ ICC Staff Weber Aff., ¶ 112. The ICC Staff noted, for example, that “[r]egulators in general do not have live data to make an independent evaluation as to the integrity, accuracy, or completeness of the data that a utility such as SBC Illinois reports,” and that “the ongoing independent third party reviews currently taking place, and their successful completion, are crucial in providing this Commission with the assurance that the data SBC Illinois reports on its performance is accurate and reliable.” *Id.*, ¶ 113.

¹³² *Id.*, ¶ 110.

that have been uncovered as a result of third-party testing in Illinois – testing results which SBC has invited this Commission to examine – confirms that there is no sound basis for a finding that SBC’s performance data are accurate and demonstrate statutory compliance.

V. SBC’S RESULTS IN THE MICHIGAN BEARINGPOINT PMR TEST ARE FAR WORSE THAN THOSE IN SIMILAR BEARINGPOINT PMR AUDITS.

77. As the BearingPoint Michigan Report reveals, SBC satisfied only *11 percent* and failed 50 percent of the PMR test criteria, and the remaining 39 percent of the test criteria are indeterminate.¹³³ Because BearingPoint has not issued an interim status report in Michigan since its October 30, 2002 report, the precise number of test criteria that SBC has failed to date is unknown. In all events, the open exceptions and observations in Michigan, combined with BearingPoint’s Michigan Report, show that SBC’s performance monitoring and reporting processes have been and continue to be plagued with serious deficiencies.

78. Notably, SBC’s performance failures during BearingPoint’s Michigan PMR test are substantially worse than those of BOCs that have received 271 authorization in states where BearingPoint has conducted similar PMR tests. As demonstrated in more detail below, in other states where BearingPoint has conducted similar PMR testing and the BOC has obtained 271 approval, the BOC passed over *90 percent* of the test criteria in the PMR tests. In view of the PMR test results of other BOCs that have obtained 271 approval, SBC’s high failure rate during the Michigan PMR test, and the PMR testing in Michigan that remains to be

¹³³ See, e.g., Ehr Aff., ¶ 234.

conducted, this Commission must not and should not lower the compliance bar and approve SBC's application on the basis of the current record.¹³⁴

A. Georgia

79. On February 14, 2002, BellSouth filed its application to provide in-region, interLATA services in Georgia in which it asserted that its performance data were accurate and reliable based upon performance metrics audits that BearingPoint conducted.¹³⁵ When BellSouth filed its Georgia/Louisiana Section 271 application, two performance metrics audits had been completed by BearingPoint and the third metrics audit was in progress. All three audits involved an analysis of the following five Performance Metrics Review (PMR) test components: (1) PMR-1: Data Collection and Storage Verification and Validation Review; (2) PMR-2: Metrics Definitions and Implementation Verification and Validation Review; (3) PMR-3: Metrics Change Management Verification and Validation Review; (4) PMR-4: Metrics Data Integrity Verification and Validation Review; and (5) PMR-5: Metrics Calculation and Reporting Verification and Validation Review.¹³⁶ In its application, BellSouth pointed out that these five test segments (PMR1-PMR5) were relevant in assessing the reliability of its performance data.¹³⁷

¹³⁴ Although this Commission has stated that it "cannot as a general matter insist that all audits must be completed at the time a Section 271 application is filed at the Commission," it has also explained that it "will give greater weight to evidence that has been audited." *Georgia/Louisiana 271 Order*, ¶ 19 at n. 68.

¹³⁵ BellSouth initially filed an application for 271 approval on October 2, 2001, but later withdrew that application after the Department of Justice and Commission Staff expressed concerns regarding, *inter alia*, the integrity of BellSouth's performance data.

¹³⁶ In Audits I and II, BearingPoint also conducted a Statistical Analysis Assessment (PMR-6) in which it assessed the statistical methods and processes that BellSouth used in evaluating parity of service. *See*,
(footnote continued on next page)

80. The five test segments in BearingPoint's Georgia PMR test are similar to those in the Michigan BearingPoint PMR test with certain exceptions. The BearingPoint Michigan test includes test segment PMR3B which assesses SBC's "documented policies and procedures for recalculating remedy payments results for restated performance measures and for communicating these changes to the" MPSC and CLECs.¹³⁸ PMR3B evaluates SBC's documentation only and does not assess the accuracy of SBC's performance remedy calculations. In contrast, in Audit III in Georgia, BearingPoint has evaluated and is continuing to evaluate the accuracy of BellSouth's performance remedy calculations.¹³⁹

81. Furthermore, the PMR4 (Data Integrity) and PMR5 (Metrics Replication) tests in Georgia are more stringent than those in Michigan. In the Georgia audits, BellSouth was deemed to have passed PMR4 and PMR5 at the sub-metric level if 100 percent of the processed records corresponded with BearingPoint's test CLEC transactions data and the values reported by BellSouth matched exactly the values calculated by BearingPoint. In contrast, in the Michigan test, SBC can pass PMR4 if "95 percent of required records are included for each measure set

(footnote continued from previous page)

e.g., Varner Supp. Aff., ¶¶ 48, 54, *Georgia/Louisiana 271 Proceeding*. During the Statistical Analysis Assessment, BearingPoint, using statistical tests, evaluated whether BellSouth's data met the parity test. In its Application, BellSouth stated that only the first five segments of the PMR test were relevant in evaluating the accuracy of its data. Audit III included a separate analysis of the accuracy of BellSouth's performance measures calculations under the Georgia performance enforcement plan ("SEEM").

¹³⁷ Varner Supp. Aff., ¶ 48, *Georgia/Louisiana 271 Proceeding*.

¹³⁸ BearingPoint Michigan Report at 29.

¹³⁹ See, e.g., Varner Supp. Aff., ¶ 56. Audits I and II in Georgia did not evaluate the accuracy of BellSouth's SEEM calculations.

evaluated in the measurement group”¹⁴⁰ and “95 percent of sample field values from processed CLEC aggregate data are consistent with unprocessed data from source systems for each measure set evaluation in the measure group.”¹⁴¹ Similarly, in the Michigan test SBC can pass PMR5 if BearingPoint replicates 95 percent of the metric values within the measure group.¹⁴²

82. Georgia Audit I, began in October 1999, involved an analysis of BellSouth’s performance data based upon all of the measurements in the performance monitoring plan adopted by the Georgia Public Service Commission (“Georgia PSC”) on October 22, 1999. During Audit I and while BellSouth’s Georgia/Louisiana 271 application was pending, BearingPoint found that BellSouth satisfied 415 of the 420 test criteria (*approximately 99 percent*) during Audit I.¹⁴³

83. In Audit II, BearingPoint validated BellSouth’s 271 charts¹⁴⁴ “for consistency against published metrics definitions and accuracy of results replication against new data” and tested “new metrics and existing metrics with new or modified levels of disaggregation, analogs, benchmarks, business rules, data exclusions, report production processes/systems, [and] legacy source data feeds” that were implemented as a result of the

¹⁴⁰ See, e.g., BearingPoint Michigan Report at 333-334, 336, 344, 357.

¹⁴¹ See, e.g., BearingPoint Michigan Report at 342, 345-346, 349-350, 356, 358, 361-362, 368, and 370.

¹⁴² See BearingPoint Michigan Report at 376-432.

¹⁴³ See, e.g., Varner Aff., ¶ 407, *Georgia/Louisiana 271 Proceeding*; Varner Supp. Aff., ¶ 49, *Georgia/Louisiana 271 Proceeding*; Varner Supp. Reply Aff., ¶ 20, *Georgia/Louisiana 271 Proceeding*. See also BellSouth GA OSS Testing Evaluation Interim Status Report, dated May 24, 2002 at 1.

¹⁴⁴ BellSouth’s 271 charts are charts that BellSouth created for 271 purposes which provided one year’s worth of data for each sub-metric reported.

Georgia PSC's June 6, 2000 Order.¹⁴⁵ In Audit II, which commenced in September 2000, BearingPoint executed the same test processes that were used in Audit I. When BellSouth's application was pending, Audit II closed with BearingPoint finding that BellSouth satisfied 100 percent of all test criteria.¹⁴⁶

84. Audit III commenced in March 2001. The Georgia PSC opened Audit III to evaluate BellSouth's performance data for new measures and levels of disaggregation that were approved by the Georgia PSC on January 16, 2001. During Audit III, BearingPoint also conducted and is still conducting the PMR7 test during which it is auditing BellSouth's compliance with the Georgia performance enforcement plan.

85. When BellSouth's Georgia/Louisiana 271 application was pending, portions of the metrics test in Audit III were not complete. But in its Georgia/Louisiana 271 application, BellSouth contended that its success in passing the test criteria during Audits I and II should serve as "reasonable indicators of Audit III results."¹⁴⁷ Indeed, BellSouth contended that Audits I and II "standing alone should provide the Commission with a high degree of confidence that BellSouth's performance data are reliable."¹⁴⁸

¹⁴⁵ See, e.g., Varner Aff., ¶ 90, *Florida/Tennessee 271 Proceeding* (discussing the Georgia audit).

¹⁴⁶ Varner Supp. Aff., ¶ 55, *Georgia/Louisiana 271 Proceeding*. See also BearingPoint Georgia Interim Report at 1 ("BellSouth has met and satisfied all evaluation criteria for Audit II.").

¹⁴⁷ *Id.*

¹⁴⁸ Varner Supp. Aff., ¶ 33, *Georgia Louisiana 271 Proceeding*.

86. In the *Georgia/Louisiana 271 Proceeding*, the Georgia PSC also asserted that Audits I and II were “comprehensive in scope, addressing everything from BellSouth’s data collection and storage practices to data replication and data integrity,”¹⁴⁹ and that BearingPoint’s re-examination of certain previously audited measures in Audit III “should not detract from the fact that the measure has already been audited at least once as part of the first two audits.”¹⁵⁰ The Georgia PSC further asserted that the mere fact that BellSouth’s data had been subjected to two completed audits “with relatively few open issues is strong evidence that BellSouth’s performance data are accurate.”¹⁵¹

87. In its *Georgia/Louisiana 271 Order*, this Commission, citing BellSouth’s testimony with approval, found that BellSouth’s data were accurate based upon, *inter alia*, the “extensive third-party auditing” that had been conducted in Georgia.¹⁵² Thus, when this Commission approved BellSouth’s *Georgia/Louisiana 271* application, it found that BellSouth’s data were accurate based upon, *inter alia*, Audit I in which BellSouth satisfied approximately 99 percent of the test criteria and Audit II in which BellSouth satisfied 100 percent of the test criteria. In stark contrast, as noted above, when BearingPoint issued its Michigan report, SBC passed only 11 percent of the test criteria in the performance metrics audit. And the Georgia

¹⁴⁹ Georgia Public Service Commission Comments at 29, *Georgia/Louisiana 271 Proceeding*.

¹⁵⁰ *Id.*

¹⁵¹ *Id.* at 29.

¹⁵² *Georgia/Louisiana 271 Order* ¶ 19.

PMR4 and PMR5 tests that BellSouth passed in Audits I and II were more stringent than the comparable PMR tests in Michigan.

B. BellSouth Five State Application

88. On June 20, 2002, BellSouth filed its 271 application for authority to provide in-region, interLATA services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina (“Five State Application”). No separate OSS tests were conducted in these states. In its Five State 271 application, BellSouth emphasized that its Operations Support Systems (“OSS”) were regional, and that “BellSouth’s data are produced by the same organization, using the same processes, computer systems/programs and the same computer programming staff to revise and maintain the systems for the region.”¹⁵³ BellSouth also contended that its data were accurate and demonstrated statutory compliance based upon, *inter alia*, the audits that were conducted in Georgia.¹⁵⁴

89. Although Georgia Audit III was still in progress at the time BellSouth filed its Five State Application, BellSouth, consistent with its arguments in the *Georgia/Louisiana Proceeding*, contended that Audits I and II “standing alone, should provide the Commission with a high degree of confidence that BellSouth’s performance data are reliable.”¹⁵⁵ In its Order on the Five State 271 Application, the Commission found that BellSouth’s OSS in Georgia were “substantially the same as the OSS in each of the five states,” and that BearingPoint’s third-party

¹⁵³ See Varner Aff., ¶ 60, *BellSouth Five State 271 Proceeding*.

¹⁵⁴ *Id.*, ¶¶ 127-159.

¹⁵⁵ *Id.* ¶ 130.

test conducted in Georgia was relevant and would be considered in evaluating BellSouth's Five State 271 application.¹⁵⁶ The Commission, citing with approval BellSouth's testimony, found as it did in the *BellSouth Georgia/Louisiana Order* test that "BellSouth's performance metric data are accurate, reliable, and useful"¹⁵⁷ based upon, *inter alia*, "extensive third party auditing" that had been conducted. At the time this Commission approved BellSouth's Five State Application, Audits I and II had been completed, and BellSouth had passed 100 percent of the test criteria.¹⁵⁸

C. Florida/Tennessee

90. On September 20, 2002, BellSouth filed its Section 271 application for authority to provide in-region, interLATA services in Florida and Tennessee. In its Florida/Tennessee 271 application, BellSouth contended that the accuracy and reliability of its performance data were confirmed by: (1) Audit I in Georgia which "was closed on August 6, 2002 with all evaluation criteria satisfied;"¹⁵⁹ and (2) Audit II in Georgia which "was closed on April 2, 2002 with all evaluation criteria satisfied."¹⁶⁰ When BellSouth filed its Florida/Tennessee 271 application, BearingPoint's Audit III in Georgia and separate performance metrics test in Florida were still in progress. Consistent with its approach in its Georgia/Louisiana and Five State 271 applications, BellSouth argued in the *Florida/Tennessee 271 Proceeding* that BearingPoint's completed Georgia Audits I and II which at that time had

¹⁵⁶ *BellSouth Five State 271 Order*, ¶ 130.

¹⁵⁷ *Id.* ¶ 16.

¹⁵⁸ See BellSouth GA OSS Testing Evaluation Interim Status Report, dated September 6, 2002 at 1.

¹⁵⁹ Varner Reply Aff., *Florida/Tennessee 271 Proceeding*, filed November 1, 2002 ¶ 48.

¹⁶⁰ *Id.*

“closed with all evaluation criteria satisfied” should “standing alone . . . provide the Commission with a high degree of confidence that BellSouth’s performance data are reliable.”¹⁶¹ This Commission, citing *inter alia*, its *Five State 271 Order* and *Georgia/Louisiana 271 Order*, as well as BellSouth’s testimony in the *Florida/Tennessee 271 Proceeding*, found, once again, that BellSouth’s performance data were accurate.¹⁶²

D. New Jersey

91. On March 26, 2002 Verizon New Jersey, Inc. (“Verizon”) filed its Section 271 application for authority to provide in-region, interLATA services in New Jersey. In its application, Verizon contended that its data were accurate and reliable based upon the third-party test conducted by BearingPoint which included a performance metrics audit consisting of the following five test segments: PMR1 (Metrics Standards and Definitions Documentation Verification and Validation Review); PMR2 (Data Collection and Storage Verification and Validation Review); PMR3 (Metrics Calculations and Reporting Verification and Validation Review); PMR4 (Metrics Data Filtering and Integrity Verification and Validation Review); and

¹⁶¹ Varner Aff. ¶ 82, *Florida/Tennessee 271 Proceeding*.

¹⁶² See *Florida/Tennessee 271 Order*, ¶ 16 n. 47 (citing initial and reply affidavits of BellSouth’s witness Alphonso Varner and the Commission’s *BellSouth Five State 271 Order* and *Georgia/Louisiana 271 Order*).

PMR5 (Metrics Change Management Verification and Validation Review).¹⁶³ These five test segments mirror those in the BearingPoint Michigan performance measurement audit.¹⁶⁴

92. Critically, at the time of Section 271 approval, Verizon passed 100 percent of the test criteria in BearingPoint's five PMR test segments.¹⁶⁵ In its decision, this Commission, "noting the thoroughness and rigorousness with which KPMG conducted its military-style test . . .," saw "no need to question the reliability of the data Verizon submitted in its application."¹⁶⁶

E. Pennsylvania

93. On June 21, 2001, Verizon Pennsylvania Inc. ("Verizon") applied for authority to provide in-region, interLATA services in Pennsylvania. In its application, Verizon argued that its performance data were accurate based upon the "extensive military-style testing" that BearingPoint conducted during the performance metrics review of its third-party test.¹⁶⁷ The Pennsylvania performance metrics component of BearingPoint's OSS test involved an examination of the following five test segments: PMR1 (Collection and Storage of Data Verification and Validation Review); PMR2 (Data Transformation Verification and Validation Review); PMR3 (Development and Documentation of Standards and Definitions Verification

¹⁶³ See Verizon New Jersey Comments at 101, *New Jersey 271 Proceeding*; Guerard/Canny/DeVito Decl., ¶ 130, *New Jersey 271 Proceeding*; BearingPoint Verizon New Jersey Inc. OSS Evaluation Project Report, dated October 12, 2001 ("BearingPoint New Jersey Report") at 355-409.

¹⁶⁴ The New Jersey PMR test did not include the PMR3B segment in the Michigan test.

¹⁶⁵ *Id.*

¹⁶⁶ *New Jersey 271 Order*, ¶ 89.

¹⁶⁷ See Guerard/Canny/DeVito Decl., ¶¶ 134-146, *Pennsylvania 271 Proceeding*.

and Validation Review); PMR4 (Change Management of Standards and Definitions Verification and Validation Review); and PMR5 (Metric Replication).¹⁶⁸ Although the PMR test numbers in Pennsylvania differ from those in Michigan, the actual test segments are essentially the same in both tests.¹⁶⁹

94. In its final report, BearingPoint found that Verizon had implemented satisfactory procedures for collecting and storing the raw data used to calculate performance results and satisfied 100 percent of the applicable test criteria in the PMR1 test segment.¹⁷⁰ BearingPoint also found that Verizon satisfied 100 percent of the applicable test points in the PMR2 test segment which evaluated whether Verizon had implemented appropriate procedures to convert its raw data into reported performance results.¹⁷¹ BearingPoint found that Verizon satisfied 100 percent of the applicable test criteria in the PMR3 test, which evaluated whether Verizon had implemented appropriate procedures for developing and documenting the metrics standards and definitions.¹⁷² During the PMR4 test, which evaluated Verizon's policies and practices for implementing changes to the measurement standards, definitions, and calculations of performance results, BearingPoint found that Verizon satisfied five of eight test criteria.¹⁷³

¹⁶⁸ BearingPoint Pennsylvania Report at 573-666.

¹⁶⁹ The Pennsylvania PMR test did not include the PMR3B segment in the Michigan PMR test.

¹⁷⁰ BearingPoint Verizon Pennsylvania, Inc. OSS Evaluation Project Final Report, Version 2.0, dated December 22, 2000 ("BearingPoint Pennsylvania Report") at 575-589.

¹⁷¹ *Id.* at 591-617.

¹⁷² *Id.* at 619-627.

¹⁷³ *Id.* at 629-649.

With respect to the “81 applicable ‘test points’ in these four portions of BearingPoint’s review, Verizon satisfied 78, or over 96 percent.”¹⁷⁴

95. During the PMR5 test segment, in which BearingPoint attempted to replicate Verizon’s performance results for July and September 2000,¹⁷⁵ Verizon satisfied 20 of 32 test criteria (approximately 63 percent).¹⁷⁶ Noting, *inter alia*, the deficiencies uncovered during the PMR5 (Metric Replication) test, the Pennsylvania PUC advised Verizon that a separate replication study should be conducted of Verizon’s January 2001 performance data.¹⁷⁷ At the direction of the Pennsylvania PUC, BearingPoint conducted a standalone replication test of Verizon’s January 2001 results.¹⁷⁸ In this separate replication test, BearingPoint successfully replicated 99 percent of the metrics values that Verizon reported.¹⁷⁹ After reviewing the results of BearingPoint’s separate replication test, the Pennsylvania PUC found that Verizon “satisfied the open replication issue from the OSS Test.”¹⁸⁰

96. Additionally, at the request of the Pennsylvania PUC, BearingPoint separately conducted three PMR tests with respect to 20 measurements which had been added to the performance measurement plan and were not tested during BearingPoint’s initial

¹⁷⁴ Guerard/Canny/DeVito Decl., ¶ 134, *Pennsylvania 271 Proceeding*.

¹⁷⁵ *Id.*, ¶ 141.

¹⁷⁶ BearingPoint Pennsylvania Report at 651-661.

¹⁷⁷ See Verizon Pennsylvania 271 Application, App. B, Tab BB-2, Letter from James L. McNulty to Verizon PA, Inc., dated January 5, 2001.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*, App. B, Tab F-3, BearingPoint’s January Metrics Replication Report at 3-6.

¹⁸⁰ Pennsylvania PUC Consultative Report at 258, *Pennsylvania 271 Proceeding*.

Pennsylvania OSS test. During its separate review of these 20 measurements, BearingPoint assessed Verizon's procedures for collecting and storing data, processes for converting its raw data into reported results, and documentation and development of metrics definitions and standards.¹⁸¹ BearingPoint found that Verizon satisfied 100 percent of the applicable test criteria during this separate review.¹⁸²

97. Furthermore, at the request of the Pennsylvania PUC, BearingPoint conducted a separate "Commercial Availability Review" during which BearingPoint compared performance data from January to March 2001 which were provided by the CLECs and Verizon covering 25 measurements.¹⁸³ During this review, BearingPoint determined that, "[b]ased on the data made available," there were "no instances where [a] CLEC identified discrepancies with the Verizon Pennsylvania reported values [that] could be fully substantiated" by the CLECs.¹⁸⁴

98. Thus, during BearingPoint's OSS test in Pennsylvania, Verizon satisfied 96 percent of the test criteria during the first four segments of the PMR test. Although Verizon initially passed only 63 percent of test criteria during the PMR5 (metrics replication) test,

¹⁸¹ In its PA Metrics Differences Analysis (2001), BearingPoint reported that: (1) the PMR4 test was not used during this review because "this test is executed at the macro level, not at the individual metric level" and (2) the PMR5 test was not used because "the January PA Replication activity eliminated the need for this test." Verizon Pennsylvania 271 Application, App. B, Tab F-4, PA Metrics Differences Analysis (2001) at 1.

¹⁸² See *id.* at 5-9.

¹⁸³ See Verizon Pennsylvania 271 Application, App. B, Tab F-5, BearingPoint Commercial Availability Review Final Report – Metrics, dated May 31, 2001.

¹⁸⁴ *Id.* at 25.

BearingPoint, at the direction of the Pennsylvania PUC, conducted a separate replication analysis of Verizon's more recent performance data and found that Verizon satisfied more than 99 percent of the applicable test points in the PMR5 test. Additionally, during its testing of new measures which had been added to the performance monitoring plan, BearingPoint found that Verizon satisfied 100 percent of the test points. Furthermore, during the separate data reconciliation tests conducted at the request of the Pennsylvania PUC, BearingPoint found no instances where discrepancies in reported results had been substantiated by CLECs. Based upon the foregoing, it is plainly evident that the meager 11 percent of PMR test criteria that SBC has passed in BearingPoint's Michigan PMR test is substantially worse than the test results in the Pennsylvania PMR test.

F. Virginia

99. On August 1, 2002, Verizon filed its Section 271 application for authority to provide in-region, interLATA services in Virginia. In its application, Verizon argued that its data are accurate and reliable based upon the performance metrics review conducted by BearingPoint as part of its third-party test of Verizon's OSS.¹⁸⁵ The performance metrics portion of the OSS test that BearingPoint conducted in Virginia consisted of the following five test segments: PMR1 (Metrics Standards Definitions Documentation Verification and Validation Review); PMR2 (Data Collection and Storage Verification and Validation Review); PMR3 (Metrics Calculation and Reporting Verification and Validation Review); PMR4 (Metrics Data Filtering and Integrity Verification and Validation Review); and PMR5 (Metric Change

¹⁸⁵ See, e.g., Verizon Application at 11, 12; Guerard/Canny/DeVito Decl., *Virginia 271 Proceeding*.

Verification and Validation Review).¹⁸⁶ These test segments are similar to those in the Michigan PMR test.¹⁸⁷ Significantly, at the time Verizon filed its Virginia 271 application, Verizon had satisfied 100 percent of the applicable test criteria in all segments of the PMR test.¹⁸⁸

100. As the foregoing demonstrates, in those proceedings in which BearingPoint has conducted essentially the same five-segment metrics test that it is conducting in Michigan, the BOC passed well over 90 percent of the test criteria in the PMR test.¹⁸⁹ In stark contrast, at the time BearingPoint issued its Michigan report, SBC had satisfied only 11 percent of the test criteria. Because BearingPoint has not issued an interim status report, it remains unclear precisely how many test criteria in the PMR test SBC has passed to date. In view of the high percentage of BearingPoint PMR test criteria satisfied by other BOCs that have received

¹⁸⁶ See BearingPoint Verizon Virginia Inc. OSS Evaluation Project Final Report Version 2.0, dated April 15, 2002 (“BearingPoint Virginia Report”) at 421-483.

¹⁸⁷ The Virginia PMR test did not include an examination of test segment PMR3B in the Michigan test.

¹⁸⁸ *Id.*

¹⁸⁹ When Verizon filed its 271 applications for authority to provide long-distance services in New York and Massachusetts, Verizon argued that its performance data were accurate and reliable based upon the performance metrics audits conducted by BearingPoint in those states. Because the tests conducted in New York and Massachusetts were structured differently than BearingPoint’s PMR test in Michigan, direct comparisons of the New York, Massachusetts, and Michigan PMR tests are not possible. However, in the New York PMR tests, Verizon satisfied over 90 percent of the PMR test criteria (with and without qualifications). Similarly, in Massachusetts, BearingPoint “was able to match 99.5% of the measurement fields sampled . . . during the data integrity test.” BearingPoint Bell Atlantic OSS Evaluation Project, Version 1.4, dated September 7, 2000 at 649. BearingPoint also successfully replicated 94% of Verizon’s metric values. *Id.* at 659. BearingPoint’s two exceptions related to Verizon’s metrics change management procedures. The Massachusetts Department of Telecommunications and Energy (“Massachusetts DTE”) conducted separate testing of Verizon’s metrics change control process after Verizon implemented changes and found that Verizon’s “defined metrics change control process sufficiently records changes to the metrics calculation process and allows for effective tracking of such changes.” Massachusetts DTE Eval. at 148, n. 296.

Section 271 approval, the substantial deficiencies in SBC's monitoring and reporting processes as reflected in BearingPoint's Michigan Report and open exceptions and observations, the weight of the evidence compels the conclusion that SBC has not demonstrated the accuracy, reliability, and completeness of the performance data on which it relies.

**VI. SBC'S CONTINUING PATTERN OF RESTATEMENTS
DEMONSTRATES THAT ITS DATA ARE UNRELIABLE.**

101. As AT&T explained in its opening comments, the sheer volume and nature of SBC's restatements demonstrate the instability and unreliability of its performance monitoring and reporting processes.¹⁹⁰ Furthermore, SBC's recent announcement regarding planned restatements further confirms that SBC's performance monitoring and reports processes continue to suffer from instability.

102. On February 20, 2003, SBC reported on its website that its performance data for a number of measures "are targeted for reposting on March 5, 2003."¹⁹¹ In this regard, SBC reported that its December 2002 results will be reposted because "[m]isinterpretation of application logic caused service orders to be incorrectly matched for the line share disaggregations for PM 59."¹⁹²

¹⁹⁰ See Moore/Connolly Decl., ¶¶ 64-70. See also TDS Metrocom at 19 (noting that "[t]he high number of restatements indicates that SBC has very little control over its data at the time it calculates its performance measurements, indicating very little reliability in data").

¹⁹¹ See SBC WebSite News as of February 20, 2003.

¹⁹² *Id.*

103. Similarly, SBC reported that its July 2002 through December 2002 performance results for Performance Measurements 105, 106 and MI 5 will be restated because SBC misinterpreted the business rules and calculated performance results based upon business days instead of calendar days.¹⁹³ It should be noted that SBC's July 2002 results have been subject to six prior restatements in September, October, November, December, January and February. Thus, with SBC's March 5, 2003 restatement, SBC's July 2002 results will have been reposted *seven* times. Similarly, SBC's August 2002 results have been subject to five prior restatements in September, October, November, December, and January. Thus, as a result of SBC's planned March 2003 restatement, SBC's August results will have been reported *six* times.

104. Furthermore, SBC reported that its August 2002 results for Performance Measurements 114, 114.1, 115 and 115.1 will be restated because "[a] coding error affected the way that duplicate orders (*i.e.*, multiple records containing identical values for one instance of an order) were counted for the FDT disaggregations."¹⁹⁴ These restatements that were recently announced by SBC, in combination with the myriad restatements that were posted prior thereto, show that SBC's performance and monitoring reporting processes are not sufficiently stable to assure accuracy in reported results.

105. The initial Moore/Connolly declaration included an analysis of the number of measurements that had been restated from May through December 2002.¹⁹⁵ Table 1 below is

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ See Moore/Connolly Decl., ¶ 68. Tables 1 and 2 in the initial Moore/Connolly declaration and in this (footnote continued on next page)

an updated chart which includes information regarding measurements that SBC restated in January and February 2003 and that it has proposed to repost in March 2003 results. As Table 1 shows, 1,063 measures will have been restated from May 2002 through March 2003.

**Table 1
Number of Performance Measures Restated**

Results Months	Restatements Made In											Total
	May	June	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March (planned)	
March	4	7	7	7	22	62	1	21	1			132
April			49	24	37	63	1	23	1			198
May				26	40	59	9	22	6			162
June				23	40	64	2	22	11	34		196
July					22	70	2	36	14	26	3	173
August					1	15	2	56	16		7	97
September						1	0	58	15		3	77
October								9	16		3	28
November										2	3	
December											4	
Total	4	7	56	80	162	334	17	247	80	62	23	1063

106. Table 2 in the initial Moore/Connolly declaration contained an analysis of measures that have been restated for multiple reasons. Table 2 below provides updated information regarding the total number of SBC's restatements from May 2002 through February 2003 and restatements scheduled for March 2003. As Table 2 shows, from May through February 2003, SBC has issued 1,816 restatements to its performance data.

(footnote continued from previous page)

joint reply declaration are based upon an analysis at the measurement (as opposed to the sub-metric) level.

Table 2
Number of Restatements to Performance Data

Results Months	Restatements Made In											Total
	May	June	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March (planned)	
March	4	8	7	7	22	144	1	21	1			215
April			57	33	48	151	1	23	1			314
May				36	85	180	9	22	1			333
June				33	83	185	2	22	7	55		387
July					22	186	2	45	17	36	3	311
August					1	21	2	73	20		7	124
September						1	0	76	19		3	99
October								10	20		3	33
November									2	2	3	7
December											4	4
Total	4	8	64	109	261	868	17	292	88	93	23	1816

107. As noted above, the ICC Staff has separately concluded that the lack of controls in SBC's performance monitoring and reporting processes as evidenced by SBC's frequent restatements demonstrates that SBC's performance measurement systems are unstable.¹⁹⁶ Furthermore, as discussed herein, BearingPoint has encountered difficulties in replicating SBC's *restated* data.¹⁹⁷ In view of SBC's frequent pattern of restatements, the ICC Staff's findings, and BearingPoint's inability to replicate SBC's restated results, SBC's assertions that it has provided sufficient assurance in the Application that its data are reliable are frivolous.

**VII. RECENT EVENTS FURTHER CONFIRM THAT SBC'S
PERFORMANCE MEASURES DO NOT CAPTURE ACTUAL
PERFORMANCE.**

108. As AT&T explained in its opening comments, despite SBC's contrary claims, its performance data cannot properly be relied upon because its measures, as defined or

¹⁹⁶ ICC Staff Weber Aff., ¶ 109 (emphasis in original).

¹⁹⁷ See, e.g., BearingPoint Observation 812, dated February 27, 2003.

implemented, do not capture actual performance.¹⁹⁸ Recent events provide further confirmation that SBC's performance data misrepresent actual performance.

109. As discussed in AT&T's initial comments, AT&T has received significantly delayed or incorrectly formatted LLNs, and these performance failures are not reflected in SBC's performance results.¹⁹⁹ In an electronic message sent on February 7, 2003, AT&T requested a meeting with SBC for the following week to discuss a number of issues, including, *inter alia*, the thousands of AT&T's LLNs that were missing from SBC's reported results for PM MI 13.²⁰⁰ In response, SBC stated that it was unavailable to meet the following week as requested, but could discuss these issues on February 19.²⁰¹

110. Although AT&T previously advised SBC that the topics for discussion at the meeting would include the thousands of AT&T's missing LLNs (including its Michigan LLNs), SBC inexplicably announced at the February 19 meeting that it was prepared to discuss *only* its Illinois performance data – a small subset of the LLNs at issue. But even during this discussion, SBC revealed that 90 percent of AT&T's missing LLNs were not reflected in its performance results for PM MI 13 because the winning CLEC did not receive a SOC. In an effort to bolster its assertion, SBC pointed to the governing business rule for PM MI 13, which states that transaction time is “measured from the time that the completion notice (EDI 865

¹⁹⁸ See Moore/Connolly Decl., ¶¶ 22-31.

¹⁹⁹ *Id.*, ¶ 23.

²⁰⁰ Electronic message from Karen Moore to Keith Headen, dated February 7, 2003.

²⁰¹ Electronic message from Keith Headen to Karen Moore dated February 10, 2003.

message) is transmitted to the new carrier to the time that the loss notification (EDI 836 message) is sent” to the losing carrier. However, SBC’s crabbed interpretation of the business rules and its explanation cannot withstand analysis.

111. It is unimaginable that a CLEC would choose *not* to receive a service order completion notice (“SOC” or EDI 865). As the ICC Staff recently observed, SOCs “are important to CLECs, because the CLEC needs this information so that it can communicate completion of work to its end user customers.”²⁰² If SBC “does not provide timely SOCs, CLECs have to expend additional time and resources to investigate whether or not the products and services they have ordered were provisioned on the committed due date.”²⁰³ Because SBC’s stated rationale for excluding AT&T’s LLNs was patently illogical, AT&T asked SBC to identify those CLECs that have chosen not to receive SOCs.²⁰⁴ Additionally, noting that SBC Retail does not receive EDI 865 messages, AT&T requested that SBC confirm: (1) whether SBC winbacks from CLECs are captured in its PM MI 13 performance results; and (2) whether SBC does, in fact, generate LLNs even when SBC is the winning carrier or the winning carrier has chosen not to receive a SOC.²⁰⁵

112. In an electronic message sent on February 25, 2003, SBC stated that 90 percent of AT&T’s LLNs that are missing from SBC’s PM MI 13 results all involved SBC

²⁰² ICC Staff Weber Aff., ¶ 29.

²⁰³ *Id.*

²⁰⁴ Electronic message from Karen Moore to Jim Ehr, dated February 21, 2003.

²⁰⁵ *Id.*

winbacks.²⁰⁶ Astonishingly, SBC also confirmed that its performance results for PM MI 13 *do not capture* any LLNs when SBC is the winning carrier.²⁰⁷ In rationalizing its exclusion of these LLNs from its reported results, SBC stated that it does not include SBC winbacks in its PM MI 13 performance results because SBC Retail does not receive EDI 865 messages. SBC's admission is nothing short of remarkable. As AT&T explained in its opening comments, based upon interviews with former customers, the vast majority of AT&T's disconnects (approximately 75 percent) involve SBC winbacks.²⁰⁸ Clearly, SBC's performance results for PM MI 13 cannot properly be relied upon when such substantial volumes of LLNs are excluded from its performance results.

113. Importantly, SBC's response on February 25, 2003, was the first time that SBC explicitly disclosed to AT&T that it excludes all SBC winbacks from PM MI 13 results. In proceedings before the MPSC SBC never drew attention to its practice of excluding this wholesale category of LLNs. If anything, SBC left the clear impression that SBC winbacks are captured in its PM MI 13 results.

114. In this regard, on March 13 and 14, 2002, the MPSC convened a Line Loss Notification workshop to address the serious problems raised by the CLECs concerning missing and late LLNs. In that connection, the MPSC received information that, during 2001, there were 24,334 missing LLNs (including 2,908 LLNs involving CLEC winbacks and 21,426 LLNs

²⁰⁶ Electronic message from James D. Ehr to Karen Moore, dated February 25, 2003.

²⁰⁷ *Id.*

²⁰⁸ DeYoung/Willard Decl., ¶ 20.

involving SBC winbacks).²⁰⁹ During these proceedings, the MPSC Staff posed a series of questions that were designed to elicit detailed and comprehensive information from SBC regarding its implementation of PM MI 13 and the status of its efforts to resolve these line loss notification issues.

115. Noting that SBC had “indicat[ed] that of the missing notifications, 12,004 had been sent to CLECs,” that “the remainder would be sent by February 8, 2002,” and that the “existing performance measures . . . do not give any indication of the extent of the missing line loss notifications problem,” the MPSC Staff asked SBC to elucidate with a greater degree of clarity “the relationship between line loss notification process and winback initiation processes.”²¹⁰ In response to the Staff’s inquiry, SBC stated:

The winback process currently provides information from completed orders for use 4 days after completion. Orders may not complete on the due date in some cases and the flow is triggered off of completion. So this information may, in some cases be more than 4 days following the actual disconnect. There have been interruptions in the period for system maintenance. Outside of those, the report has been consistently created daily.

The 836 Line Loss report performance has been discussed in the workshop. *Restatement of PM MI 13 should reflect the late deliveries that have been identified.*²¹¹

²⁰⁹ See SBC Ameritech Michigan’s Supplemental Report on the Line Loss Notification Issue, filed April 1, 2002, Attach., “Questions/Action Items from Loss Notification Workshop,” Question 1 from MPSC at 1-2, Case No. U-12320 (MPSC).

²¹⁰ *Id.*

²¹¹ *Id.* at 5.

116. SBC's response is telling. Because the MPSC Staff specifically identified 21,426 LLNs involving SBC winbacks that were missing from SBC's reported results, SBC had to be referring to such LLNs when it unequivocally stated in its response that its restated results "should reflect the late deliveries that have been identified."²¹² Thus, SBC's response leaves the clear impression that SBC's delayed LLNs (including those involving SBC winbacks) would be captured in its PM MI 13 results.

117. Furthermore, performance measurements serve no useful purpose unless they accurately capture the performance they are intended to measure. However, because of SBC's ill-conceived "definitional liberties"²¹³ in interpreting the business rules governing PM MI 13, SBC's interpretation renders this critically important measure – in an area in which SBC is known to have significant performance problems – meaningless.²¹⁴ Since SBC has excluded SBC winbacks from its PM MI 13 performance results, it is no small wonder that its performance reports for UNE-P show that it has closely approached or exceeded the 95 percent benchmark standard for PM MI 13. For example, according to SBC's December 2002 reported results, SBC returned 92.12 percent of AT&T's LLNs on time and missed the benchmark by approximately three percentage points. However, as Table 3 below shows, if AT&T's missing LLNs were

²¹² *Id.*

²¹³ ICC Staff Weber Aff. ¶ 99.

²¹⁴ The MPSC found this issue to be extremely important: "Failure to provide timely notice of migrations is an egregious and anticompetitive neglect of Ameritech Michigan's duty. This problem, including both CLEC-to-CLEC migrations and Winback changes, must be resolved promptly." Order, MPSC Case No. U-12320 at 6-7 (Dec. 20, 2001). SBC's failure to draw attention to its practice of excluding SBC winbacks from its PM MI 13 results is all the more troubling.

included in SBC's December 2002 performance results for PM MI 13, SBC would have *missed* the benchmark by approximately *twenty* percentage points.

Table 3

	SBC's Reported Results/UNE-P			AT&T Missing LLNs Included		
	On Time	Total	% On Time	On Time	Total	% On Time
November						
IL	[*****]	[*****]	96.39%	[*****]	[*****]	84.35%
IN	[*]	[*]	100.00%	N/A	N/A	N/A
MI	[*****]	[*****]	97.42%	[*****]	[*****]	89.53%
OH	[*****]	[*****]	96.26%	[*****]	[*****]	78.54%
December						
IL	[*****]	[*****]	93.13%	[*****]	[*****]	78.17%
IN	[*****]	[*****]	100.00%	[*****]	[*****]	98.82%
MI	[*****]	[*****]	92.19%	[*****]	[*****]	74.51%
OH	[*****]	[*****]	96.16%	[*****]	[*****]	81.95%

118. Similarly, as Table 3 shows, SBC's reported PM MI 13 results for November 2002 show that SBC exceeded the 95 percent benchmark and returned 97.42 percent of AT&T's LLNs on time. However, if AT&T's missing LLNs for UNE-P were included in SBC's November 2002 performance results, SBC would have *missed* the 95 percent benchmark since it returned only 89.5 percent of AT&T's LLNs on time. These examples show that SBC's exclusion of SBC winbacks results in inaccurate performance results for PM MI 13 which are biased in SBC's favor.

119. Furthermore, as AT&T explained in its opening comments, SBC's performance results on PM MI 13 are otherwise untrustworthy because they do not capture LLNs that are never sent or which contain insufficient or inaccurate information.²¹⁵ Indeed, as the ICC

²¹⁵ Moore/Connolly Decl., ¶ 25.

Staff recently observed, “performance measure MI 13, which is currently being reported, does not accurately capture SBC Illinois’ performance in its delivery of line loss notifications.”²¹⁶

120. AT&T recently has discovered other inaccuracies in SBC’s December raw data for PM MI 13 that SBC has furnished.²¹⁷ AT&T has found that, with respect to substantial numbers of the UNE-P LLNs in SBC’s raw data file, SBC Advanced Solutions and Covad are listed as the winning carriers. However, since neither of these carriers offers voice services, the inclusion of these LLNs in the raw data file is utterly baffling, and AT&T has so advised SBC.²¹⁸

121. Furthermore, in SBC’s December Indiana raw data file, AT&T discovered [*****] LLNs where a carrier identified as “Wallace” is listed as the winning carrier. However, AT&T has been unable to find any evidence of a certified carrier by that name in Indiana. Additionally, since AT&T did not enter the Indiana market until January 2003, it is plainly impossible for it to have lost [*****] customers it has yet to acquire.

122. Upon discovering these discrepancies in the raw data file, AT&T informed SBC in an electronic message that some of the winning carrier information in the raw data file did not make any sense.²¹⁹ After AT&T sent this message, Mr. Ehr at SBC agreed that the data

²¹⁶ ICC Staff Weber Aff., ¶ 15.

²¹⁷ As noted above, in Exception 187, dated February 18, 2003, BearingPoint found that SBC’s step-by-step logic for calculating results for PM MI 13 is inaccurate or incomplete. Similarly, in Exception 188, dated February 18, 2003, BearingPoint found that SBC’s data flow diagrams and data element maps for PM MI 13 appear to be inaccurate.

²¹⁸ Electronic message from Karen Moore to Jim Ehr, dated February 25, 2003.

²¹⁹ Electronic message from Karen Moore to Jim Ehr, dated February 25, 2003.

were suspicious. SBC is still investigating this issue and has not yet provided an explanation for these apparent discrepancies. Interestingly, the next transmission of raw data for the PM MI 13 measure did not include *any* winning carrier information.

123. The inaccuracies in SBC's performance data are not confined to PM MI 13 results. As AT&T explained in its opening comments, SBC has erroneously rejected thousands of AT&T's orders, and these orders were rejected because SBC has implemented changes in its interface code without any prior notice – or any notice at all – to AT&T.²²⁰ Unfortunately, AT&T has continued to experience problems regarding spurious rejections.

124. By letter dated February 26, 2003, AT&T notified SBC that, during the prior week, [*****] orders were erroneously rejected by Ameritech's systems.²²¹ LSRs were erroneously rejected because of "inadvertent changes by SBC's EDI group during the weekend of February 15-16"²²² Because of these problems, "AT&T was forced to recode its side of the interface."²²³ Moreover, as AT&T discussed in its opening comments, as a result of these erroneous rejections, AT&T has been forced to supplement its rejected orders. Because a supplemental LSR cancels the original LSR, SBC's performance data do not capture its abysmal performance in this area.²²⁴ When AT&T "supps" an order, SBC's results capture only its

²²⁰ See, e.g., Moore/Connolly Decl., ¶ 26; DeYoung/Willard Decl. ¶¶ 21-22.

²²¹ Letter from Sarah DeYoung to Thomas Harvey and Glen Sirles, dated February 26, 2003.

²²² *Id.* at 2.

²²³ *Id.*

²²⁴ Moore/Connolly Decl., ¶ 26.

performance in meeting status notice timeliness standards and committed due dates associated with the supplemental order. As a consequence, SBC's unwarranted rejection notices and the attendant delays in the ordering and provisioning processes are inaccurately reflected in SBC's performance results.

125. For example, SBC's performance results on PM 9 report disaggregated data on CLEC-caused rejects, as well as SBC-caused rejects. However, when SBC erroneously rejects an order and AT&T "supps" the rejected order, SBC includes the rejected order as a CLEC-caused reject in its reported results for PM 9. As Table 4 below illustrates, SBC's decision to treat such spurious rejections as CLEC-caused rejects has a dramatic impact on reported results.

126. Table 4 below shows: (1) the number and percentage of CLEC-caused rejects that SBC reported for AT&T's orders in November and December 2002; and (2) the restated results if SBC's erroneous rejections of AT&T's orders were subtracted from SBC's results. As Table 4 shows, in November, SBC's Michigan PM 9 results for AT&T reported 23.59 percent CLEC-caused rejects. However, if SBC's erroneous rejections were subtracted from these results, the percentage of CLEC-caused rejects would decrease to 11.43 percent for AT&T. Similarly, in December 2002, SBC's PM 9 results for AT&T reported 16.13 percent CLEC-caused rejects. However, if SBC's erroneous rejects were subtracted from these results, the CLEC-caused rejection rate for AT&T would decrease to 10.50 percent.

Table 4

	SBC Reported % CLEC-Caused Rejects			Restated % CLEC-Caused Rejects		
	Num	Dem	% Rej	Num	Dem	% Rej
November						
IL	[*****]	[*****]	23.99%	[*****]	[*****]	11.82%
MI	[*****]	[*****]	23.59%	[*****]	[*****]	11.43%
OH	[*****]	[*****]	17.43%	[*****]	[*****]	8.82%
December						
IL	[*****]	[*****]	14.88%	[*****]	[*****]	9.25%
MI	[*****]	[*****]	16.13%	[*****]	[*****]	10.50%
OH	[*****]	[*****]	11.54%	[*****]	[*****]	5.91%

127. In its February 26 letter, AT&T advised SBC that “[t]hese acute and chronic” unwarranted rejections of AT&T’s orders have “created the immediate need for an effective and efficient means for SBC to correct these types of errors AND to ensure that the performance impacts are properly captured in the performance metrics.” As explained in the DeYoung Willard Reply Declaration, AT&T also has calculated that the missed penalty payments for late FOCs and late installations associated with Ameritech’s erroneous rejections of AT&T’s orders during the week of February 17. The penalties for these two performance measures alone total approximately \$756,000.²²⁵

128. Given the serious deficiencies in the performance data upon which SBC relies, SBC cannot legitimately contend that its data accurately reflect its actual performance. Furthermore, because the data on which SBC relies do not capture SBC’s performance failings, it has absolutely no incentive to resolve the serious deficiencies in its OSS. Moreover, because performance data serve as the springboard for penalty payments, the inaccuracies in SBC’s

²²⁵ *Id.*

performance data will thwart the efficacy of the purported self-executing remedial structure of the performance enforcement plan.

VIII. SBC'S SO-CALLED COMMITMENT TO DATA RECONCILIATION RINGS HOLLOW.

129. Although SBC, in its Application, touts its commitment to the data reconciliation process, recent events confirm that SBC's purported commitment to this process is purely illusory. No meaningful data reconciliation can occur unless: (1) SBC provides, as a starting point, a complete and accurate raw data file that can serve as the basis for data analysis; (2) knowledgeable subject matter experts participate in the process; and (3) data integrity issues are examined vigorously and resolved promptly. However, SBC has impeded the data reconciliation process by providing incomplete and inadequate raw data files, failing to ensure that its subject matter experts are present during discussions between the parties, and introducing unnecessary delays in the process.

130. Thus, for example, on January 17, 2003, AT&T asked SBC to provide the raw data files for PMs 39, MI 13 and MI 15 for September to November 2002. On January 22, 2003, SBC sent the raw data file for PM 39 only and told AT&T that the raw data files for MI 13 and MI 15 would be sent in a "couple of weeks."²²⁶ However, as AT&T pointed out in its opening comments, the raw data file that SBC sent for PM 39 contained incomplete trouble ticket

²²⁶ Electronic Message from Keith Headen to Karen Moore dated January 22, 2003.

code information.²²⁷ On January 31, 2003, SBC finally provided the raw data file which included the exclusion code.²²⁸

131. On February 5, 2003, AT&T requested the raw data for PM 9 for September to December 2002 so that it could attempt to reconcile the erroneously rejected orders that SBC has agreed to reflow.²²⁹ However, AT&T has not yet completed this analysis because SBC took an unacceptably long period of time to provide the data to AT&T. Indeed, AT&T did not receive the raw data file for PM 9 until February 25 – almost three weeks after its request. In rationalizing this delay, SBC stated that the first version of the raw data file it created in response to AT&T's request was inadequate.

132. On February 7, 2003, AT&T requested the raw data underlying SBC's December 2002 performance results for PM MI 13. On February 20, 2003, SBC sent the PM MI 13 raw data file, however, the raw data LSOG4 file that SBC supplied was incomplete and lacked a number of data fields, including the SRTN_TN field which contains the telephone number that AT&T needs to reconcile line loss data.²³⁰ On February 21, 2003, AT&T requested that SBC resend the raw data file with complete information.²³¹ Moreover, as discussed above, AT&T notified SBC that the raw data file contained line losses to winning carriers that did not

²²⁷ See Moore/Connolly Decl. ¶ 140.

²²⁸ After AT&T complained about the length of time SBC was taking to provide the PM MI 13 and PM MI 15 raw data files, SBC finally transmitted these files to AT&T on January 29.

²²⁹ Electronic message from Karen Moore to Keith Headen dated February 5, 2003.

²³⁰ Electronic message from Albert Belair to Susan Lubbe dated February 21, 2003.

²³¹ *Id.*

make sense. Thus, as the foregoing demonstrates, AT&T has been hampered in its efforts to analyze and reconcile discrepancies in SBC's data because SBC has repeatedly failed to provide accurate and complete raw data files in a timely manner.

133. Similarly, no meaningful data reconciliation can take place unless the parties ensure that knowledgeable personnel with the requisite level of expertise fully participate in the process. However, SBC has delayed the data reconciliation process by failing to have its subject matter experts available to address data integrity issues raised by AT&T.

134. In this regard, on February 7, 2002, AT&T requested a meeting with SBC the following week to discuss a number of performance data issues, including SBC's practices when applying the "No Access" and "Delayed Maintenance" codes to trouble tickets. As discussed above, SBC notified AT&T that it could not meet to discuss these issues within the requested timeframe. Worse yet, after SBC agreed that it would be prepared to discuss these issues on February 19, it announced during the meeting that it could not address AT&T's concerns because SBC's network personnel who are knowledgeable about its coding practices were not present. SBC insisted that the discussion be limited to performance measure results as reported to the team responsible for the calculation and posting of results; no SBC representative was prepared to discuss the accuracy or completeness of the inputs to the reported results. AT&T requested another meeting with SBC personnel who could address these issues, and on February 26, SBC requested further clarification as to the objectives for this meeting. AT&T responded to SBC's request and is still waiting for a confirmed date for the meeting.

135. SBC's failure to have subject matter experts at the meeting on February 19, which was delayed at SBC's request, in combination with SBC's inaccurate, incomplete and untimely raw data files, demonstrates the fallacies in SBC's arguments that its commitment to the data reconciliation process should provide this Commission with a sufficient level of comfort that its performance data are accurate and reliable.

136. Additionally, AT&T has found that the raw data files SBC has provided for PMs 35 (Percent Trouble Reports Within 30 Days (I-30) of Installation) and 39 (Receipt to Clear Duration) contain suspicious disposition codes. Upon examining SBC's raw data files for September and October 2002 for PM 35, AT&T found that [***] of AT&T's tickets (9.3 percent) were closed out to code 525, which is a code for SBC-caused provisioning errors on flow through orders. Curiously, however, none of AT&T's tickets were closed out to code 526, which is the code for SBC-caused provisioning errors for orders that fall out for manual handling. Similarly, SBC's raw data files from October through December 2002 for PM 39 show that SBC closed out [***] of its tickets (3.4 percent) to code 525, and that no tickets were closed out to code 526.

137. Since AT&T submitted both flow through orders and orders that fell out for manual processing during the relevant period, it stands to reason that the raw data files for PMs 35 and 39 should reflect a distribution between the two codes.²³² Additionally, given the

²³² Other codes appear to be highly suspect. Approximately 9 percent of AT&T's tickets have been closed out to code 413, a code which applies when a cable pair must be repaired within the sheath, but there is no damage to the sheath. Such incidents, however, should be relatively rare. Additionally, a high number of AT&T's trouble tickets for residential orders were cleared out to code 531, which is used for missing cross connects. Again, this code is highly suspicious.

inherent increased risk of error associated with manually-processed orders, it logically follows that the raw data files should reflect a greater number of tickets that were closed out to code 526, than code 525.

138. AT&T has requested a data reconciliation meeting with SBC to reconcile disposition codes 525 and 526.²³³ SBC has not yet responded with a firm date for this requested meeting.

CONCLUSION

139. When reduced to its simplest terms, SBC's most recent Application is a stark admission that SBC has put the proverbial cart before the horse by filing its Application at this time. SBC's performance monitoring and reporting processes are unreliable and unstable; and the audits conducted to date lend no support to SBC's claims that its performance data are trustworthy.

140. Although SBC claims to have resolved the data integrity issues identified in the audits, by SBC's own admission, it has yet to take the remedial steps to correct all of the significant defects in its performance monitoring and reporting systems. Further, although SBC claims that it has undertaken corrective measures to resolve certain deficiencies in its reporting processes, there is no reliable, verifiable proof that these remedial steps have cured the deficiencies in SBC's performance reporting practices. And, in all events, these recent corrective

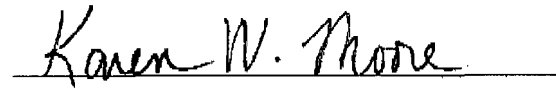
²³³ Electronic message from Karen Moore to Keith Headen, dated February 28, 2003.

steps cannot excuse SBC's reliance on inaccurate and unreliable data generated before implementation of these so-called remedial measures.

141. Thus, at bottom, SBC invites this Commission to approve its application based upon: (1) unreliable, inaccurate and unstable data; (2) E&Y's procedurally and substantively flawed audit which has revealed serious defects in SBC's performance reporting processes and which remain uncorrected; (3) BearingPoint's incomplete audit which continues to reveal that SBC's performance monitoring and reporting processes are plagued with a plethora of deficiencies; (4) the MPSC's findings that SBC's data have not yet reached a sufficient level of stability; (5) the findings of the ICC Staff that SBC's performance data are inaccurate and unreliable and cannot be relied upon for checklist compliance; (6) a pattern of restatements highlighting the instability of SBC's processes; (7) inaccurate, incomplete, untimely, and otherwise highly suspicious raw data files that cannot possibly serve as the basis for meaningful data reconciliation; and (8) SBC's conduct during the reconciliation process that simply confirms that SBC is engaging in dilatory tactics so that data integrity issues will remain unresolved before this Commission reaches a decision on its Application.

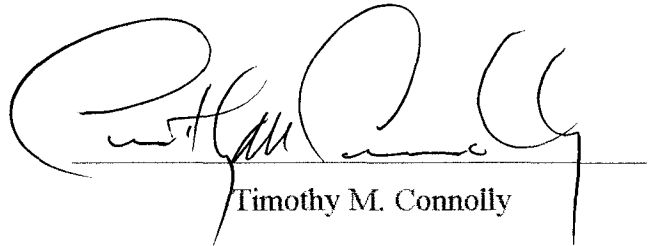
142. The timing of SBC's filing of its Application was plainly within its control. Instead of resolving these issues before filing, SBC elected instead to charge forward with the hopeful expectation that this Commission might somehow lower the compliance bar and approve the Application. The Commission should not rise to the bait.

I hereby declare under penalty of perjury that the foregoing is true and accurate to
the best of my knowledge and belief.


Karen W. Moore

Executed on March 4, 2003

I hereby declare under penalty of perjury that the foregoing is true and accurate to
the best of my knowledge and belief.



Timothy M. Connolly

Executed on March 4, 2003

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Sharon E. Norris

Sharon E. Norris

Executed on March 4, 2003